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Supreme Court, U.S.
FILED

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No.______________

OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1998

EDWARD LESOON

Petitioner,

vs.

UNITED STATES OF AMERICA

Respondent.

On petition for a Writ of Certiorari to the Court of Appeals for the Tenth Circuit

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PETITION FOR A WRIT OF CERTIORARI

Edward Lesoon
Petitioner
P.O. Box 3427
Alpine, Wyoming 83128
(307) 886-0115

Petitioner

263 pp

QUESTIONS PRESENTED

Is the Citizen in the Party/Petitioner entitled to a Post-Judgement relief within the Federal Rules of Civil Procedure 60(b)(1)(3)(6). The Post-Judgement evidence clearly demonstrates the Citizen in the Party/Petitioner denied Due Process of Law, Equal Justice under the Law according under the Amendments the First, the Fourth, the Fifth, the Seventh, the Eighth, the Fourteenth of the Constitution of the United States of America. The panel of judges for the Tenth Circuit court of Appeals opinion is not supported on legal Constitutional grounds according to Law, according to facts, and is bias, fraud, conspiracy, extortion, corrupt, and without Statutory Liability of law bound according and under the Legislative Implementing Regulations. It is the province and duty of the Judiciary to state what the law is.

Is the Citizen In The Party/Petitioner in neglect and violation of a duty as matter of Law, the statute making Citizen In The Party/Petitioner liable to file a return and pay alleged income tax based on a return and based on Legislative Implementing Regulations.

Is the Citizen In The Party/Petitioner neglectful and in violation of a legal known duty based on Law and Statute.

Is the citizen in the Party/Petitioner's Constitutional Rights guarantee, innocent until proven guilty according to Equal Justice under the Law, and Due Process!

PARTIES TO THE PROCEEDING

In addition to the party mentioned in the caption, Pamela C. Berry, Susan A. Berson, Teresa E. McLaughlin, Carol A. Statkus, Donald R. Worbetz, David D. Freudenthal, Esquire, David Kubichek, Judge William F. Downes, Laurie Snyder, Stuart Brown, William S. Estabrook, Murray Horwitz, Solicitor General of the United States, were parties before the Court of Appeals.

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INTRODUCTION

For Subject matter Jurisdiction, the case, Incorporated Case Number: 97-015-D, Ref: 97-8105 Lesoon v. United States of America, is under Amendments the first, the fifth, the seventh, the fourteenth, Article the third, Section the one, Article the third, Sectioin the second, and Article the sixth of the Constitution of the United States of America and Title: 28, U.S.C. Sections the 2072, F.R.C.P., the Act of June 25, Title: 28, 1948 Writs of Error Section 1 656, 62 Stat., 869, 646, 62 Stat., 992, C. 646, § 39, 62 Stat. 992, Rule 11 (a)(2) (2)(A)(3) of Rules of Civil Procedure in a common law, and Title 4 United States of America Code 1 and 2 American. Flag of Peace In a Common Law Venue.

Comes now Citizen In The Party/Petitioner, Edward Lesoon under the Constitution of the United States of America, Amendment the first, the seventh, the fourteenth, and under Title:d 4 United States of America Code 1 and 2 American Flag of Peace in a Common Law, under Uniform Commercial Code 3-501: Under Title: 42 United States Code 1986, Knowledge of the Law, under Title: 42, United States code 1986 Action for neglect to prevent, Federal Rules of Civil Procedure, Rule 60(b) and Federal Rules of Civil Procedure, Rule 38(a) Incorporated Case Number: 97-015-D, Ref: 97-8105 is under Amendments the first, the fifth, the seventh, the fourteenth, Article the third, Section the one, Article the third, Section the second, and Article the sixth of the constitution of the United States of America and Title: 28 Section the 2072 (a)(b)(c), C. 646, and Title28: § 39, 62 Stat. 992, dated June 25, 1948 of Rules of Civil Procedure, Writ of Error and Title: 4, United States Code 1 and 2 American Flag of Peace in a Common law, referenced under Presidential Executive Order 10834, and under The Constitution of the United States of America Article the Sixth, Section the Third: Oath of Fiduciary Officers of the court, and under Article the fourth, Section the third: No "State" (Natural Party) shall be created from any state (land) and United States Code A. 11: "Foreign State" (Law of the Flag) shall have jurisdiction over a Sovereign Citizen, and Article the one, Section the nine: No Title of Nobility under any foreign flag jurisdiction and in breach of the treaty of Title 28: United States Code 1605 "Foreign Sovereign Immunity Act" of October 21, 1976 and in breach of the Constitution of the United States of America, will be allowed in the jurisdiction of Incorporated Case Number: 97-015-D, Ref: 97-8105, Edward Lesoon v. United States of America referenced under Amendments the first, the fifth, the seventh, the fourteenth, Article the third, Section the one, Article the third, Section the second and Article the sixth of the Constitution of the United States of America and Title: 28, Section 2072 rules of Civil Procedure and Title: 28, Act of June 25, 1948 C.646 § 39, 62 Stat. 992, Writ of Error. Under Title: 4 United of America Code 1 and 2 American Flag of peace in a Common Law. Breach of the Contract will cause sanction under Federal Rules of Civil Procedure Rule 16(F). When the Constitution of the United States is Surrendered for a foreign states/power, will cause the Breach of Contract, of Oath or Affirmation for the Constitution of the United States of America, the legal action charges under Perjury of Oath Title: 18, U.S.C. and false swearing. Charges under Title: 42 1986 Knowledge of the law, Title: 42, 1986 Action for neglect to prevent, Title: 42; U.S.C. 1985 subsection (2) Obstructing justice (3) Depriving of rights or privileges, Title: 28, U.S.C. 1359 collusively joined or made, Title: 18, U.S.C. 1342 Mail Fraud, Title: 18, U.S.C. 1512 Obstruction of Justice, and Federal Rules of Civil Procedure 10(a) Neglectful Knowledge of the Law, Constructive Treason will be brought against the Justices and the Officers of the Supreme Court responsible.

Citizen In The Party/Petitioner respectfully requests Writ of Common Law Error/Certiorari be granted to review the corrupt conspiracy decision of the Court of Appeals of the United States for the Tenth Circuit Incorporated Case number: 97-015-D, Ref: 97-8105 Edward Lesoon v. United States of America, being under Amendments the first, the fifth, the seventh, the fourteenth, Article the third, Section the one, Article the third, Section the second, and Article the sixth of the Constitution of the United States of America and Title: 28, U.S.C. Section 2072 of Rules of Civil Procedure and Title: 28, U.S.C. Act of June 25, 1948 C. 646 § 39,62 Stat. 992, Writ of Error, and Title: 4 United States Code 1 and 2 Flag of Peace under Common Law.

OPINIONS BELOW

The opinions of the Supreme Court of the United States: Cheek v. United States 111 Supreme Court 604 (1991)

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Laing v. United States S. Ct. 473 (1976)
The opinions of the Court of Appeals of the Ninth Circuit
Bothke v. Terry 713 F. 2d 1405 (1983)
Helvering v. Mitchell (1938) 303 U.S. 391 58 S. Ct. 630
"Our Income Tax system is voluntary assessment and payment, not distraint."

STATEMENTS OF JURISDICTION

The corrupt and conspiracy decision of the Court of Appeals of the United States for the Tenth Circuit was handed down on July 15, 1998. The Court of Appeals for the Tenth Circuit in conspiracy and corruption denied a petition for rehearing on August 10, 1998, Incorporated Case Number: 97-015-D, Ref: 97-8105 Edward Lesoon v. U.S.A.. The Jurisdiction of the Supreme Court of the United States of America is hereby invoked under Title: 28, U.S.C. 1254 (1)(2) Title: 28, U.S.C. Act of June 25, 1948 C. 646 § 39, 62 Stat. 992, Writ of Error Article the three Section the one and Section the two, Article the sixth, Amendments the first, fourth, the fifth, the seventh, the eight and the fourteenth of the Constitution of the United States of America, any other jurisdiction is Void and Fraud.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Article VI of the Constitution of the United States of America provides the Constitution, and the laws of the United States of America which shall be made in pursuance thereof . . shall be the Supreme Law of the land; any thing in the Constitution or laws of any state to the contrary not withstanding. All Executive and Judicial Officers, both of the United States of America and of the several states, shall be bound by Oath or affirmation to support this Constitution.

Article the third, Section the one of the Constitution of the United States of America provide in relevant part:

"The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The Judges, both of the Supreme and inferior courts shall hold their office during good behavior."

Article the third, Section the two of the Constitution of the United States of America: The Judicial Power Shall extend to all cases in law and equity, arising under this Constitution, the laws of the United States. The Supreme Court shall have appellant jurisdiction both as law and fact.

Amendment the one of the Constitution of the United States of America provides in relevant part to petition the government for a redress of grievance; Amendment the five of the Constitution of the United States of America provides in relevant part: "No person shall . . .be deprived of life, liberty, or property, without due process of law. . ."

Amendment the seventh of the Constitution of the United States of America provides in relevant part: "Facts re-examined in any court of the United States, that according to the rules of the Common Law."

Amendment the fourteenth of the Constitution of the United States of America provides in relevant part: "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without Due Process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

Federal Rule of Civil Procedure - 60 (b)(1)(3)(6) provides in relevant part:

(b)(1)- mistake, inadvertence, surprise, or excusable neglect;

(b)(3)- fraud, misrepresentation, or other misconduct of an adverse party;

(b)(6)- On motion and such terms as are just, the court may relieve a party or parties from a final judgment order, or proceeding for the following reasons. . . any other reason justifying relief from the operation of the judgment.

STATEMENT OF THE CASE

The fundamental question in the Incorporated Case Number: 97-015-D, Ref: 97-8105 Edward Lesoon v. United States of America, being under Amendments the first, the fourth, the fifth, the seventh, the fourteenth, Article the third, Section the one, Article the third, Section: the second, and Article the sixth of the Constitution of the United States of America and Title: 28, U.S.C. Section: the 2072 of Rules of Civil Procedure, Title: 28, U.S.C. Act of June 25, 1948 C. 646 § 39, 62 Stat. 992, Writ of Error, Title: 4 United states Code 1 and 2 Flag of Peace in Common Law. Citizen In The Party/Petitioner is and must be entitled to relief from any conspiracy, corruption, fraud, extortion decision or judgment and treaty violation which have been perpetrated by the United States Tax Court, Wyoming Federal Court, the Court of Appeals of the United States for the Tenth Circuit. The Tax Court Judge, Wyoming Federal Court Judge and the Appeals Court for the Tenth Circuit panel of judges lacked the authority of decision based on doubt relative to a positive Statutory construction and Legislative Implementing Regulations and the courts being in a foreign venue jurisdiction under the yellow fringe flag. This arises in the context under Federal Rules of Civil Procedure 60 (b)(1)(3)(6). Title: 18, U.S.C. Section 242. (1) Deprivation of rights under Color of Law. Title: 18, U.S.C. Section: 871. Extortion: the obtaining of property by another induced by wrongful use of actual or threatened force, or fear, or under Color of Official Right.

Title: 42, U.S.C. Section: 1986. for the knowledge of the law and negligence of the law by not stopping and correcting a wrong against Citizen In The Party/Petitioner. Title: 28, Chapter: 85, (Dated 1789) U.S.C. Section 1359. Duress, mental or financial harm, coercing, prejudice: for reason other than justice, constructive Treason, contempt for the Constitution of the United States of America. The Court of Appeals of the United States for the Tenth Circuit has decided an important question of non-existent Federal Law has not been, but should be, settled by the Supreme Court. To reopen a decision and judgment serves to deprive Citizen In The Party/Petitioner of Treaty Rights violation and the violation secured by the Constitution of the United States of America, Amendments: the first, the fourth, the fifth, the seventh, the fourtenth.

The Appeal Court for the Tenth Circuit of the United States of America, the Wyoming Federal Court, and the United States Tax Court used for an illegal purpose and perpetrated against Citizen In The Party/Petitioner fraud, extortion, theft, conspiracy in violation of Due Process, and equal justice threat of mental or financial harm or other means amounting by or tending by coercing and in a Gestapo fashion. When the Citizen In The Party/Petitioner is injured by Breach of Contract in the law through conspiracy, Fraud, Collusin, forceful contract, or perjury of oath, or surrender of the Constitution of the United States of America into a foreign: state/power, causes constructive treason by the judge. The Court will lose jurisdiction over Incorporated Case Number: 97-015-D, Ref: 97-8105, Edward Lesoon v. United States of America Title: 28, U.S.C. Section: 454, and 455.

The Courts knew the Constitution of the United States of America laws were correct as sworn by the Oath or Affirmation contract, then acted with acts, stated herein by the definition of Titles, the lack of a disclaimer contract will void any contract by all standards of international, treaty or contract, the act of conspiracy U.S.C. Section: 1986; for neglect by not stopping and correcting the wrong, by Title: 18, U.S.C. Section; 242; deprivation of rights under Color of Law by officers of the courts and obstruction of justice under Title: 18, U.S.C. Section: 1512, by denying witnesses and testimony into the record of the courts while acting in conspiracy by the officers of the Courts without Due Process of Law under the (Date 1789) Constitution of the United States of America. Article the seven, the conspiracy by officers of the courts present in court under Title: 42, U.S.C. 1985 (1), furthered the extortion for money or property without Due Process (Date 1789) Constitution of the United States of America. Article the seven, of law; and extortion (Title: 18, U.S.C. Section; 872) of money or property in violation of the Constitution of the United States of America, right of Citizen In The Party/Petitioner. The violations of the law in and for the Deprivation cause the Federal Rules of Civil Procedure: Rule 12(b)(7,6,5,4,3,2,1) by being violated causing a Fraud. Federal Rules of Civil Procedure Rule 9(b).

Citizen In The Party/Petitioner captured the United States Federal District Court for the District of Wyoming into a Title: 4 United States Code 1 and 2 American Flag of Peace in a common law and under jurisdiction of the United States Constitution on

September 4, 1997, Ref: Court Transcript the decision made by Judge William F. Downes on September 22, 1997 is fraud since it was decided under the yellow fringe flag of foreign jurisdiction, since Judge Downes cannot rule over two jurisdictions, Reference: Federal Rules of Civil Procedure 12(b)(3) wrong venue. Judge William F. Downes clearly and intentionally committed and perpetrated fraud against Citizen In The Party/Petitioner, and denied Citizen In The Party/Petitioner day in court, right to the court and Due Process of Law. Judge William F. Downes misrepresented his authority before the Court, neglecting the Constitution of the United States of America, committed contempt for the Constitution of the United States of America, perjury of oath, false swearing, constructive treason, surrendering his Oath and affirmation to a foreign jurisdiction. Judge William F. Downes knew exactly what he intended to do to Citizen In The Party/Petitioner before Citizen In The Party/Petitioner even entered the Court. Judge William F. Downes was committing Fraud against Citizen In The Party/Petitioner under Title: 18, U.S.C. 3 Accessory before the fact.

Accordingly the decision which was handed down by the United States Court of Appeals for the Tenth Circuit, by the panel of Judges Baldock, Ebel and Murphy, Circuit Judges being under yellow fringe flag of foreign jurisdiction is Fraud. The drive of the courts for power not justice or Due Process remains a goal of constant, the courts and the Judicial System are on a crusade of judicial activism, the now justification by long corrupt usage pr prescriptive right, an easement across democratic authority for judicial transgressions and Fraud. The Appeals Court of the United States for the Tenth Circuit, the United States District Court for the State of Wyoming, and the Tax Court of the United States used for an illegal conspiracy, Fraud and corrupt purpose, threat of mental and financial harm injustice amounting by or tending by coercing; Accordingly Citizen In The Party/Petitioner is not required to file or pay the alleged income tax: Refernce: MFR - 01, Individual Master File Flora v United States 362 United States 145,176 - Cheek v. United States 111, 604, Redfield v. Fisher 292 p. 813, Laing v. U.S. 96 S. Ct. 473. Stapler v. U.S. 21 F. Supp. 737 at 739.

A. Background of the Case and Judgment

Citizen In The Party/Petitioner received Notice of

Deficiency for the year 1991, from the Internal Revenue Service on July 15, 1993. Citizen In ~~The~~ Party/Petitioner filed a petition with the United States Tax Court for the year 1991, on October 4, 1993.

Citizen In The Party/Petitioner received Order and decision of the United States Tax Court by Judge Robert N. Armen, Jr. alleging Citizen In The Party/Petitioner is liable for the alleged income tax for the year 1991, on March 21st 1994.

The Internal Revenue Service/Revenue officer Christopher Reedy in the manner of Racketeering organized conspiracy committing the crimes of extortion and coercion by doing an act of unlawful injury against property of threatened Citizen In The Party/Petitioner. Under Title: 42, U.S.C. Section; 1985 (3) Illegally extracted $7,623.40 on March 9, 1995 from Citizen In The Party/Petitioners I.R.A. account/Smith and Barney. The extraction of the $7,623.40 was totally in violation of Legislative Regulations and requirement to issuing to the Citizen In The Party/Petitioner the following Congressional Mandated Procedures:

1) No copy of (Levy Form 668-B) for year 1991
2) No copy of (Notice of Seizure Form 2433) as provided by Internal revenue Code of 1954 - Sections: 6502,6335(a) for year 1991.
3) No copy of Assessment was issued for year 1991 - See Bull v. U.S. 295 U.S. 247 (no income tax can be "due" until the correct amount is assessed. Also see: I.R.C. Section 6502(a) 62-3-6201.
4) No copy of Notice and Demand for payment was made for year 1991 according to I.R.C. Section 6861(a) and Treasury decision 1995.
5) No copy of Delegation Order - under I.R.C. Section 7401.
6) No Certification of Federal Tax Lien, in accordance with the uniform Federal Lien Act. 713.901.

Citizen In The Party/Petitioner filed a letter of refund request of the $7,623.40 on April 10, 1995. Citizen In The Party/Petitioner was denied refund request of the $7,623.40 on May 24, 1995. Citizen In The Party/Petitioner filed a refund suit for year 1991 in the amount of $7,623.40 plus $1,000,000.00 (One million dollars) in punitive and reckless damages on December 23, 1996

Judge William F. Downes granting Defendants motion to dismiss was handed down on September 22, 1997 in U.S. District Court of Wyoming, without Due Process or the course of justice for

Incorporated Case Number: 97-015-D, Ref. 97-8105 Edward Lesoon v. U.S.A. Citizen In The Party/Petitioner filed an Appeal with the Tenth Circuit of October 8, 1997, for Incorporated Case Number: 97-015-D, Ref. 97-8105. Citizen In The Party/Petitioner appeal was denied and judgment of the United States District Court for the District of Wyoming was Affirmed, and the government motion for Sanctions was Granted in the amount of $1,500.00 on July 15, 1998. Citizen In The Party/Petitioner filed for re-hearing on February 9, 1998. Citizen In The Party/Petitioner re-hearing request was denied on August 10, 1998 illegally and without Due Process of Law and under foreign venue of the yellow fringe flag and jurisdiction by the Court of Appeals of the U.S. for the Tenth Circuit before Circuit Judges Bobby R. Baldock, David M. Ebel and Michael R. Murphy. Citizen In The Party/Petitioner filed Motion of Stay of mandate on July 31, 1998, the Incorporated Case Number: 97-015-D, Ref. 97-8105.

All motions, Petitions, Stay of Mandate, Re-hearing, objections, refusals, and appeals are filed by Citizen In The Party/Petitioner under and accordance to Title 4 U.S. Code 1 and 2 American Flag of Peace and under Presidential Executive Order 10834 dated August 25, 1959, and Amendments the first, the fourth, the fifth, the seventh, and the fourteenth of the Constitution of the United States of America in Common Law.

Title: 28, United states Code 2072; Rule of Civil Procedure:

The Supreme Court shall have the power to prescribe by general rules, the forms of process, writs, pleading, and motions, and the practice and procedure of the District Courts and Courts of Appeals of the United States in civil action, the practice and procedure in proceedings for the review by the Court of Appeals of decision of the Tax Court for the judicial review. Such rules shall not abridge, enlarge or modify any substantive right and shall preserve the right of trail by jury as at Common Law as declared by Amendment the seventh of the Constitution of the United States of America.

All laws in conflict with such rules shall be of no further force or effect. Nothing in the title, anything therein to the contrary not withstanding shall in any way limit, supersede, or repeal any such rules hereto for prescribed by the Supreme Court of the United States of America.

Title: 28, Chapter 85 1359, The will of another and actually inducing person by doing an act contrary to citizen of free will.

The fore judgment and opinion of the Appeal court of the United States for the Tenth Circuit is unconstitutional, prejudice, bias, preconceived opinion. A leaning towards one side of a cause for some reason rather that a conviction of the justice.

Reference:

Olmstead ETAL. v. United States 277 U.S. 533 Circuit Court of the Appeals for the Ninth Circuit. Green ETAL v. United States and McInnis v. United States "Decency, security and liberty alike demand that government officials shall be subjected to the same rules of conduct that are commands to the citizen. In a government of lais, existence of the government will be imperiled if it fails to observe the law scrupulously. Our government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example."

Crime is contagious. If the government becomes a law breaker, it breeds contempt for law; it invites every man to become a law unto himself; it ~~i~~nvites anarchy. To declare in the administration of the criminal law the end justifies the means - to declare the government may commit crimes in order to secure the conviction of a private criminal - would bring terrible retribution. The government cannot break the law to enforce the law.

Reference: The fraud, subterfuge, trespass, theft is perpetrated by government official participates therein, the evidence secured is not admissible for the reason secured in a manner which violates the provisions of the Amendment the fourth and the Amendment the fifth of the Constitution of the United States of America. See: Reference: Byars v. United States, supra; United States v. Mandel 17 F. (2d) 270;

It is in harmony the rule of liberal construction always has been applied to provisions of the Constitution safeguarding personal rights;

Byars v. United states, 273 U.S. 28, 32
Mc Cullock v. Maryland, 4 Wheat, 316, 404, 406, 407, 421
Marbury v. Madison, 1 Cranch 137, 153, 176
Cohens v. Virginia, 6 Wheat 264
Myers V. United States 272 U.S. 52

Reference: "A reasonable construction of the taxing statutes does not include vesting any tax official with absolute power of assessment against individuals not specified in the statutes as party liable for the tax without an opportunity for judicial review of status before appellation of "taxpayer" is bestowed upon them and their property is seized and sold. . ." See: Botta v. Scanlon 288 F2d 504, 508 (2nd cir 1961)

Reference: Greyhound Corp f. United States 495 F 2d 863 (1974). Doubt relative to statutory construction should be resolved in favor of the individual, not the government.

Reference: Gregory v. Helvering 293 U.S. 465. The legal right of an individual to decrease or altogether avoid his/her taxes by means which the law permits cannot be doubted.

Reference: United states v. Bishop 412 U.S. 346, 361 (1973). The requirement of an offense committed willfully is not met, if a taxpayer has relied in good faith upon a prior decision of the court.

Reference: Flora v. United States, 362 U.S. 145, 176 (1960), Bothke v. Terry, 713 F 2d 1405 U.S. 9th Cir. Ct. of Appeals (1983), Laing v. United States 96 S. Ct. 473 (1976). The income tax system is a self reporting and self assessing one. Based upon voluntary assessment and payment, not upon distraint (force).

Reference: Busse v. Commissioner of Internal Revenue Service, 479 F 2d 1143 (1973). Courts have no power to rewrite legislative enactment's to give effect to their ideas of policy and fitness or the desirability of symmetry in statutes.

Reference: Cheek v. United States 111 S. Ct. 604 (1991). If the defendant had a subjective good faith belief, no matter how unreasonable, he was not required to file a tax return, the government cannot establish the defendant acted willfully.

Reference: United States v. Kaiser, 80 9 S. Ct. 1264 (1960). A personal right is not transferable or assignable is also not taxable. Damages for alienation of affections, defamation of personal character do not constitute income.

Reference: Brushaber v. Union Pacific Rail Road, 240 U.S. 1, 17; 36 S. Ct. 236, 241. Income has been taken to mean the same thing as used in the Cooperation Excise Tax of 1909 (36 Stat. 112). The worker does not receive a profit or gain from his/her labors - merely an equal exchange of funds for services.

Reference: Miranda v. Arizona 384 U.S. 436, 491; 86 S. Ct. 1602. Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them.

Reference: Economy Plumbing and Heating v. United States 456 F 2d 713. The Revenue laws apply to taxpayers, and not to non taxpayers. Congress does not assume to deal with non taxpayers, neither are they the subject of nor the object of revenue laws.

Reference: Stapler v. United States 21 F. Supp 737 AT 739. Income means gains/profits from property severed from capital, however invested or employed. Income is not a wage or compensation of any type of labor.

Reference: Perlman v. United States490 F 2d 933. Ability to exercise voluntary discretion is violated when duress is brought on by government action.

Reference: Eisner v. Macomber 252 U.S. 180, (1920) S. Ct "Income" means gain, not compensation.

Reference: Laurelade v. Matthews 345 Pa. 239, (1946) S. Ct. Compensation for labor is not profit.

Reference: Oliver v. Halstead 86 SE 2d 858 (1955) S. Ct Compensation for labor is not profit.

Reference: Conner v. United States 303 F. Supp 1187 (1969) S. Ct Congress has taxed income, not compensation.

Reference: South Pacific v. Lowe 247 U.S. 330 1921 S. Ct. Income means only gains/profit, not wages.

Reference: Goodrich v. Edwards 255 U.S. 527 (1921) S. Ct.

"Income means gain, not compensation,"

Reference: United States v. Long CR 19391 District of Tennessee October 15, 1993. Wages are not taxable income according to the jury, the Internal Revenue Service cannot tax a mans right to work for wages.

Reference: The Supreme Court of the United States of America held in Sugar Refining Co. v. McClain, 192 U.S. 397. "The Citizen is exempt from taxation, unless the same is imposed by clear and unequivocal language, and the construction of a tax is doubtful, the doubt is to be resolved in favor upon whom the tax is sought to be laid."

Reference: The Supreme Court of the United States of America held in: Eisner v. Macomber, 252 U.S. 189, the word "income" to mean "the same thing as profit or gain."

Reference: The doctrine of Stare Decisis requires the citizen is able to fully rely upon the decisions of the Supreme Court and not be recklessly and needlessly penalized for such reliance. See: Cf Flood v. Kuhn 407, S. 258, Wallace v. McCommel 13 PET 136, 10 L. ED. 95.

> Justice Antonin Scalia states: In a Matter of Interpretation. "No liability for breach of contracted duty without privity." "It is incompatible with democratic government to allow the meaning of a statute to be determined by what the judges think the law giver meant rather than by what the legislature actually promulgated. The judicial lawmaking is the essence of Common Law, Judges should interpret statutes and regulations in focusing on the text itself. we must pay attention to the Constitutions original meaning."

The Constitution and the Common Law 16 AM JUR 2nd Sec. 113. An important canon of construction is the Constitution of the United States of America must be construed reference to Common Law. Since, in most respects, the Federal and State Constitution did not repudiate but cherish the established Common Law it has been said without reference to the Common Law the language of the Federal Constitution could not be understood. Reference to the fact the instrument and the plan of government of the United States were founded on the Common Law as established in England at the time of the Revolution. It is a general rule, phrases in the Bill of Rights taken form the Common Law must be construed in reference to the latter.

Taken together, the import of the majority and concurring bias and illegal opinions is clear. In refusing to allow post-judgment discovery, the opinion of the Court of Appeals for the Tenth Circuit implies Citizen In The Party/Petitioner has no Constitutional Rights and no remedy of justice. The Court of Appeals for the Tenth Circuit ignores and neglects the roll of a Federal Court a fact-finder. Judge-made law is expost facto law, and unjust, the judiciary shall not usurp legislative power, according to the Bill or Rights.

REASONS FOR GRANTING THE WRIT

I.

THE PETITION MUST BE GRANTED ACCORDING TO THE OPINION WHICH CONFLICTS THE SUPREME COURT OF THE UNITED STATES OF AMERICA PRIOR RULINGS ON THE ESSENTIAL DUE PROCESS RIGHT OF PETITIONER TO A COMPETENT AND IMPARTIAL TRIER OF FACT.

The Citizen In The Party/Petitioner petition for Common Law Writ of Error/Certiorari must be granted according the opinion of the Court of Appeals of the Tenth Circuit conflicts the Supreme Court of the United States of America important prior ruling on a fundamental Due Process Right to a fair trail. In delineating the contour of the right, the Court of Appeals for the Tenth Circuit has consistently dealed and practiced "impartiality" "Judge-made law".

Due Process violated since Citizen In The Party/Petitioner was subjected to a panel of judges engaged in a direct, personal substantial pecuniary interest in reaching a conclusion against Citizen In The Party/Petitioner. See: Tumey v. State of Ohio, 273 U.S. 510, 523 (1927).

Due Process clause of the Fourteenth Amendment of the Constitution of the United States of America guarantees the determination of a decision be made by a judicial officer competent to perform his duties, and not practice bias or prejudice. Citizen In The Party/Petitioner must be granted the Writ referenced to the

Supreme Court of the United States of America may affirm the importance of long standings holdings on Due Process and confirm the right to a competent and non bias decision of judgment and justice rendered the panel of Appeal Judges.

II.

THE PETITION MUST BE GRANTED SINCE THE DECISION OF THE APPEAL COURT FOR THE TENTH CIRCUIT PANDL OF JUDGES CONFLICTS WITH THE SUPREME COURT OF THE UNITED STATES OF AMERICAS PRIOR RULING ON THE SIGNIFICANCE OF RULE 60(B)(6) AS MEANS OF EFFECTUATING DUE PROCESS RIGHTS, AND AS A VEHICLE TO CORRECT BIIOLATIONS OF PETITIONERS DUE PROCESS RIGHTS.

Federal Rules of Civil Procedure 60(b) provides a party may be relieved of a final judgment. Rule 60 (b)(6) . . .grants Federal Courts broad authority to relieve a party from a final judgment upon such terms is appropriate to accomplish justice and equal rights under the Constitution of the United States of America. In violations Due Process Rights the right to a competent panel of judges be preserved Citizen In The Party/Petitioner must be able to raise the issue on appeal, if the panel of judges in competency manifests itself within the time for re-appeal or in motion to Rule 60(b)(6) if is manifests itself afterwards.

III.

THE PETITION MUST BE GRANTED SINCE THE OPINION OF THE COURT OF APPEALS FOR THE TENTH CIRCUIT PANEL OF JUDGES OPINION AND DECISION DISREGARDS THE SUPREME COURTS PRIOR RULING ON THE CRUCIAL RULE OF A TAX COURT JUDGE AS A TRIER OF FACT.

The Citizen In The Party/Petitioner is denied the opportunity to observe Tax Court Judge decision making process. Citizen In The Party/Petitioner is denied the opportunity to observe the Court of Appeals for the Tenth Circuit panel of judges decision making process. The Court of Appeals for the Tenth Circuit deliberately failed to acknowledged or comply with the important fact-finding responsibilities and duties vested in Court Judges under Article the third Section the one, the two and the sixth of the

Constitution of the United States of America.

Under the Constitution of the United States of America Amendment the first, the ninth, the thirteenth and the fourteenth the Appeal Court for the Tenth Circuit panel of judges major role is the determination of fact, and with experience in fulfilling the role, comes expertise.

IV.

THE PETITION MUST BE GRANTED DUE TO FACE TO FACE HEARING, AND APPEARANCE BY CITIZEN IN THE PARTY/PETITIONER IN TAX COURT AND IN THE COURT OF APPEALS FOR THE TENTH CIRCUIT IS AN ADVANTAGE THE TAX COURT AND THE APPEALS COURT FOR THE TENTH CIRCUIT BOTH DENY THE CITIZEN IN PARTY/PETITIONER.

In violation of Constitutional Due Process within the Fourteenth Amendment of the Constitution of the United States of America, the Court of Appeals for the Tenth Circuit in its decision being bias, unjust and without facts relied heavily on the Tax Court decision and the influence of the corrupt Respondent attorneys. The limited review of the case in prejudice by the Court of Appeals for the Tenth Circuit panel of judges to render or affirm the incompetent Tax Court decision disgregards Trier of Fact. For reasons and violations of Due Process and the violation of the constitution of the United States of America Amendments the first, the fifth, the seventh, the eighth, the ninth, the thirteenth, and the fourteenth, and Article the third Section the one and the two and Article the sixth of the Constitution of the United States of America which the Citizen In The Party/Petitioner must be granted.

V.

THE PETITION MUST BE GRANTED SINCE THE OPINIONS CONFLICT THE SUPREME COURT OF THE UNITED STATES OF AMERICA UNDER TITLE 28 UNITED STATES CODE SECTION 2072 RULES OF FEDERAL CIVIL PROCEDURE.

VI.

THE PETITION MUST BE GRANTED SINCE THE OPINION OF THE COURT OF APPEALS FOR THE TENTH CIR-

CUIT CONFLICTS THE SUPREME COURTS PRIOR RULING ON THE EFFECT OF RULE 60(b)(1)(3)(6) AS A MEANS OF EFFECTUATING DUE PROCESS RIGHTS.

VII.

The Petition must be granted since the opinions of the court of Appeals for the Tenth Circuit in violatioin of Title: 28 -1359.

The court cannot enter into collusion of contract and does create base of jurisdiction of the Court of Appeals for the Tenth Circuit.

Violation of Uniform Commercial Code 3-501 Citizen In The Party/Petitioner cannot be forced into a contract.

Violation of Federal Rules of Civil Procedure 12(b)(2) lack of jurisdiction over Citizen In The Party/Petitioner.

Violation of Federal Rules of Civil Procedure 12 (b)(3) improper venue, the Court Appeals acting under administrative foreign state, foreign jurisdiction, under the yellow fringe flag. Violation of Constitutional Rights of the Amendment the first, the fourth, the fifth, the seventh, the eighth, and the fourteenth of the Constitution of the United States of America.

CONCLUSION

The Case titled above under Title: 4 United States Code one and two American Flag of Peace, and jurisdiction and under the Constitution of the United States of America Amendments the first, the fourth, the fifth, the sixth, the seventh, the eighth, the eleventh and the fourteenth and Article the third Section the one and section the two of the Constitution of the United States of America. The exceptionally important fundamental rights under Article the sixth of the Constitution of the United States of America which states:

"This Constitution and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the Supreme Law of the Land; and the Judges in every state shall be bound thereby, anything in the Constitution or Laws of any state to the contrary non withstanding.

Executive and Judicial Officers, both of the United States and of the several states shall be bound by Oath or Affirmation to support the Constitution."

The case being under Common Law Venue, under the Constitution of the United States of America, and under Title: 4 United States Code one and two American Flag of Peace is exceptionally important -- in presenting a question the Citizen In The Party/Petitioner is and should be entitled to relief from a judgment of the Court of Appeals for the Tenth Circuit, based on the panel judges being incompetent and prejudice, corruptly in violation of Due Process of the constitution of the United States of America. Arbitrary corruption of selfish power was made by the judges of the court of appeals for the Tenth Circuit, selfish and bias in favor of the government, since the Court of appeals for the Tenth Circuit panel of judges acted deliberately in their decision to institute fraud, conspiracy, theft, extortion, and contempt for the Constitution of the United States of America.

The Court of appeals for the Tenth Circuit panel of judges affirming decision is without merit, and without construction according to statute of known liability, a legal known duty violation on behalf of the Citizen In The Party/Petitioner. Since the construction according to a legal known statute for the liability to file and pay the alleged income tax does not exist. There must be a well defined statute of law, to have been determined by the Court of Appeals for the Tenth Circuit. The alleged income tax acts set forth in the courts decision are a ground of liability governed by a legal known statute of law. See: Marbury v. Madison 5th U.S. (2 Cranch) 137, 180 (1803) United States Supreme Court. Chief Justice Marshall stated, "It is; emphatically, the province and duty of the judicial department, to say what the law is."

The decision perpetrated by the Court of Appeals for the Tenth Circuit was made under the foreign jurisdiction of the yellow fringe flag, the Court of appeals for the Tenth Circuit and the panel of judges violated the Venue of the Court rule 12-B (3) of Federal rules of Civil Procedure. Also violation of Article the fist Section the ninth and Amendment the eleventh of the Constitution of the United States of America. The case was filed with the Court of Appeals for the Tenth Circuit, under Title 4 United States Code one and two American Flag of Peace in a Common Law Venue, and under the Amendment the fifth, the seventh, and the fourteenth of the Constitution of the United States of America. Personal security and private property depend entirely upon the wisdom, integrity, and stability of courts of justice. The innocent can be protected against unjust accusations, or the injured to obtain redress for wrongs. Government can represent a law that is vague and uncertain; oppressive and mischievous, when the acted administration of justice is dependent upon caprice, or favor, upon the will of rulers. When government power becomes right, it is of no consequence, the decisions rest on corruption, weakness, conspiracy, fraud and deliberate wrong. In our government, with the security of both public rights and private rights and private rights it is indispensable, there must be a judicial department, to ascertain, and decide, rights, to punish crimes, to administer justice, and to protect the innocent from injury and usurpation.

The existence of a supreme Court is at all times indispensable for the purposes of protecting and administrating public justice.

Citizen In The Party/Petitioner affirms injury when the finding of fact incorporated into the Complaint with the Court for reporting breach of fiduciary responsibilities as required under Title 42: United States Code: Section 1986 for Neglect of Law and the Constitution of the United States of America.

Laws not being upheld for the Citizen In The Party/Petitioner and denial of pleadings by the Court of Appeals . . in violation of Federal Rules of Civil Procedure 9(b), 12(b), 56(d) and The Constitution of the United States of America Article the seventh; Due Process; Equal Protection: Title: 42 United States Code Section 1985(2); Depriving Justice. (Title:18 United States Code Section 1621), Perjury of Oath of Office, if coercion is used Violation of Title; Title: 18 United States Code Section 1359 will cause action under; Title: 18 United States Code Section 4 Misprison of a felon.

By finding and facts presented and filed according to the Constitution of the United States of America. Laws and Civil Rights under Title: 42 United States code Section 1985 (2) Equal - Protection of the Law violated and caused Perjury of Oath, by the court of Appeals for Tenth circuit. The oath of office is given first and before entering office. The oath is incorporated after the oath or affirmation is taken and signed. The term of an attorneys oath, by supporting the constitution of the United States of America never expires until attorney terminates practice. All judges are attorneys under oath, judges add affirmation into the oath, both positions swear by supporting the Constitution of the United States of America.

When rights are violated: Perjury of Oath under Title 18 United States Code Section: 1621 and false swearing are relevant and become violations by the facts of definition. Federal Rules of Civil Procedure Rule 9 (b) Federal Rules of Civil Procedure Rule 12 (d) Title 42 United States Code Section 1983 at note 337; note 349. Rucker v. Martin, D.C. OKL 1980, 303 F. Supp. 20. Goldschmidt v. Patchett, C.A. 7 (ILL.) 1982, 686 F 2d 582. Slavin v. Curry, C.A. 5 (TEX) 1978, 574 F. 2d 1256.

The court of Appeals and the panel of judges for the Tenth Circuit knew the Constitution of the United States of America; Under Title: 4 United States Code one and two American Flag of Peace; a Common Law Venue; knew laws were correct, however injured Citizen In The Party/Petitioner with the decision and the sanctions imposed.

The mystery surrounding many legal changes are particularly baffling when dealing with a corrupt system of Judge-made law. Citizen In The Party/Petitioner did not violate any legal known duty, the Constitution of the United States of America rights guarantee Citizen In The Party/Petitioner innocent until proven guilty.

By granting the Citizen In The Party/Petitioner a Common Law Writ of Error/Certiorari, the Supreme Court of the United States of America can correct and vacate the Court of Appeals for the Tenth Circuits' corrupt decision, since The Supreme Court of the United States of America standing the Citizen In The Party/Petitioner Due Process Right to an impartial and competent tribunal, and that Rule 60 (b)(6) can be used to effectuate this right, in reversing, correcting and vacating the unjust and corrupt decision of the Court of Appeals and panel of judges for the Tenth Circuit, the Supreme Court of the United States of America can also reaffirm the very important and crucial role perpetrated by the Court of Appeals and panel of judges for the Tenth Circuit to grant Citizen In The Party/Petitioner relief by vacating the corrupt and unconstitutional decision perpetrated by the Court of Appeals and panel of judges for the Tenth Circuit. Accordingly, the Citizen In The Party/Petitioner respectfully requests the Petition for Common Law Writ of Error/Certiorari and under Title 4 United States Code one and two American Flag of Peace and a hearing in present of all the Justices be granted within the Common Law and justice of the

Constitution of the United States of America.

Accordingly, Citizen In The Party/Petitioner respectfully request that Common Law Writ of Error/Certiorari be granted.

The foregoing Incorporated Case Number: 97-015-D, Ref: 97-8105 Edward Lesoon v. United States of America hereby presented and executed in reliance and accordance the Amendments the first, the fourth, the fifth, the seventh, and Amendment the fourteenth Section the one, Amendment the eleventh, and Article the sixth, the Constitution of the United States of America Title: 28; 2072, F.R.C.P. Title: 28; U.S.C. Act of June 25, 1948 c.646. § 39,62 Stat. 992, Writ of Error, Title: 4; U.S.C. 1 and 2. Flag of Peace in a Common Law Venue.

Respectfully submitted
Edward Lesoon
/s/Edward Lesoon
10-29-1998
Edward Lesoon
Citizen In The Party/Petitioner
P.O. Box 3427
Alpine, Wyoming 83128
(307) 886-0115

IN THE SUPREME COURT OF THE UNITED STATES
OCTOBER TERM 1998

Edward Lesoon
Citizen In The Party/Petitioner

v.

United States of America
Respondent

Incorporated Case Number: 97-015-D, Ref: 97-8105

ON PETITION FOR A COMMON LAW WRIT OF ERROR/CERTIORARI TO THE COURT OF APPEALS FOR THE TENTH CIRCUIT

Under Title: 4 United States Code 1 and 2 American Flag of Peace in a Common Law Venue. Title: 28, U.S.C. Act of June 25, 1948 C. 646 § 39, 62 Stat. 992, Writ of Error

DECLARATION

I, Edward Lesoon, Citizen In The Party/Petitioner, a natural Citizen In The Party/Petitioner with Constitutional Rights, and a Citizen In The Party/Petitioner, natural form and a human being. In the capacity of my responsibility in handling Incorporated Case Number: 97-015-D, Ref: 97-8105, is under Title: 4, United States Code 1 and 2 American Flag of Peace. Title: 28, U.S.C. Act of June 25, 1948 c. 646 § 39, 62 Stat. 992, Writ of Error, Title: 28, 2072 F.RC.P. Amendments the first, the fourth, the fifth, the seventh, and the fourteenth of the Constitution of the United States of America the Facts set forth in the accompanying petition for a Common Law Writ of Error/Certiorari, being filed in a timely manner, in accordance to Title: 28, U.S.C. 1746. The information is true to the best of my knowledge.

Respectfully submitted
/s/ Edward Lesoon

10-29-1998

Edward Lesoon
Citizen In The Party/Petitioner
P.O. Box 3427
Alpine, Wyoming 83128
(307) 886-0115

STATE OF WYOMING)
)ss.
COUNTY OF LINCOLN)

The foregoing instrument was acknowledged before me by Edward Lesoon this 29th day of Oct, 1998.

Witness my hand and official seal.

Yvonne I. Hayden
Yvonne I. Hayden, Notary Public

My commission expires: 9/2/2000

YVONNE I. HAYDEN - NOTARY PUBLIC
COUNTY OF LINCOLN
STATE OF WYOMING
My Commission Expires September 2, 2000

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

EDWARD LESOON,

Plaintiff-Appellant

v.

UNITED STATES OF AMERICA,

Defendant-Appellee.

FILED
United States Court of Appeals
Tenth Circuit

JUL 15 1998

PATRICK FISHER
Clerk

No. 97-8105
(D.C. No. 97-CV-015-D)
(D. Wyo.)

ORDER AND JUDGMENT*

Before **BALDOCK**, **EBEL**, and **MURPHY**, Circuit Judges.

After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34(a); 10th Cir. R.34.1.9 The case is therefore ordered submitted without oral argument.

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* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

Plaintiff Edward Lesoon, proceeding pro se, appeals the district court's order dismissing his action brought against the United States for various constitutional statutory violations in connection with his tax deficiency for the 1991 tax year. The district court determined that it lacked subject matter jurisdiction over plaintiff's constitutional and statutory claims because he had previously filed a petition with the Tax Court disputing the tax imposed for the 1991 tax year. The district court also ruled that plaintiff failed to state a claim for relief pursuant to the Taxpayer Bill of Rights, 26 U.S.C.§ 7433. We have jurisdiction under 28 U.S.C.§ 1291 and affirm.

"We review de novo the district court's dismissal for lack of subject-matter jurisdiction." Owen v. Magaw,122 F.3d 1350, 1352 (10th Cir. 1997). Our review of an order of dismissal for failure to state a claim also is de novo. See Witt v. Roadway Express, 136 F.3d 1424, 1431 (10th Cir. 1998).

We have reviewed the parties' briefs, the district court's order, and the record on appeal. Upon de novo review, we affirm the district court's order dismissing plaintiff's claims for substantially the reasons stated in the order granting defendant's motion to dismiss dated September 22, 1997.

Defendant United States of America has requested imposition of sanctions for pursuing this frivolous appeal. Plaintiff has responded to the sanctions request. See Braley v. Campbell, 832 F.2d 1504, 1515 (10th Cir. 1987) (notice and opportunity to respond required before imposing sanctions). The district court cautioned plaintiff against pursuing his frivolous claims in this case. We determine that plaintiff's arguments on appeal are legally frivolous. Therefore, we impose sanctions against plaintiff Edward Lesoon in the amount of $1,500, as authorized by 28 U.S.C. § 1912 and Rule 38 of the Federal Rules of Appellate Procedure, for the reasons stated in Casper v. Commissioner, 805 F.2d 902, 906 (10th Cir. 1986) (imposing flat fee of $1,500 as sanction in frivolous tax appeal).

The judgment of the United States District Court for the District of Wyoming is AFFIRMED. The government's Motion for Sanctions is GRANTED in the amount of $1,500. All other pending motions are DENIED. The mandate shall issue forthwith.

Entered for the Court

Michael R. Murphy
Circuit Judge

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

EDWARD LESOON,

Plaintiff - Appellant,

v.

UNITED STATES OF AMERICA,

Defendant - Appellee.

No. 97-8105

ORDER

Filed December 9, 1997

Before **PORFILIO** and **BRISCOE**, Circuit Judges.

On December 3, appellant filed a "motion to deny appellee's motion for a 30 day extension of time in which to file its brief." We construe this motion as an objection to appellee's extension request. We granted that request on November 28. Consequently, appellant's objection is moot. The motion is denied.

Entered for the Court
PATRICK FISHER, Clerk of Court

/s/
Elisabeth A. Shumaker
Chief Deputy Clerk

IN THE UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

EDWARD LESOON,

Plaintiff - Appellant

v.

UNITED STATES OF AMERICA,

Defendant - Appellee

FILED
United States
Court of Appeals
Tenth Circuit
NOV 28 1997
PATRICK FISHER
Clerk

NO FURTHER EXTENSIONS
WILL BE GRANTED

No. 97-8105

GRANTED
TO: JAN. 14,1997
NOV 28 1997
PATRICK FISHER
s/
DEPUTY CLERK

APPELLEE'S MOTION FOR AN EXTENSION OF TIME IN WHICH TO FILE ITS BRIEF

The United States of America, appellee herein, by and through its counsel, Pamela C. Berry, respectfully moves this Court for an extension of 30 days, to and including January 14, 1998, within which to file and serve its brief in the above-captioned case, for the reasons hereinafter set forth:

1. Appellee's brief is currently due on December 15, 1997, and no prior extensions of time have been sought by the

United States respecting this appeal.

2. I will not be able to turn my full attention to the preparation of Appellee's brief in this case until I complete work on the answering brief of the Commissioner of Internal Revenue in Transpac Drilling Venture v. Commissioner (2d Cir. - No. 95-4177(L), 95-4179(CON)), a consolidated appeal involving appeals taken with respect to nine decisions of the Tax Court. The Commissioner's brief is due to be filed (on extension) on December 24, 1997. I began work on the Commissioner's brief in Transpac prior to receiving Appellant's brief in this case.

3. Our office is scheduled to move to a new building on December 13 and 14, 1997. As a result of this move, I will have to spend several days during December packing and unpacking the material in my office.

4. I did not participate in the proceedings in this case before the District Court, and thus have no previous familiarity with the record or issues presented.

5. In addition to being out of the office for the Christmas and New Years holidays, I plan to be out of the office on December 26, 1997, and December 29, 1997.

6. Due to the above circumstances, the additional time requested is unavoidably required to enable me to prepare a

draft of the Government's brief and thereafter to have the brief reviewed by a supervisory attorney and filed with the Court.

WHEREFORE, it is respectfully requested that the time for filing and serving the Government's brief be extended for 30 days, to and including January 14, 1998.

/s/
PAMELA C. BERRY
Attorney
Tax Division
Department of Justice
Post Office Box 502
Washington, D.C. 20044
(202) 514-2988
Counsel for the United States

Dated: This 24th day of November, 1997

IN THE UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

EDWARD LESOON,)
)
Plaintiff - Appellant)
)
v.) No. 97-8105
)
UNITED STATES OF AMERICA,)
)
Defendant - Appellee)

DECLARATION

PAMELA C. BERRY, of the Department of Justice, Washington, D.C., states as follows:

1. I am the attorney employed in the Appellate Section, Tax Division, Department of Justice, to whom this case has been assigned; and

2. The facts set forth in the accompanying motion are true to the best of my knowledge and belief.

I declare under penalty of perjury, pursuant to 28 U.S.C. Section 1746, that the foregoing is true and correct. Executed on this 24th day of November, 1997, at Washington, D.C..

/s/
PAMELA C. BERRY
Attorney

App.10

CERTIFICATE OF SERVICE

It is hereby certified that service of the foregoing motion has been made on the Appellant, who is appearing pro se, on this 24th day of November, 1997, by mailing a copy thereof in an envelope to him, properly addressed as follows:

Mr. Edward Lesoon
P.O. Box 3427
Alpine, Wyoming 83128

/s/
PAMELA C. BERRY
Attorney

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF WYOMING

EDWARD LESOON)
)
Plaintiff,)
)
vs.)
)
UNITED STATES OF AMERICA)
)
Defendant)

FILED
U.S. DISTRICT COURT

97 SEP 22 AM 10 00

DISTRICT OF
WYOMING
CASPER
CLERK

No. 97-CV-015-D

ORDER GRANTING DEFENDANT'S MOTION TO DISMISS

This matter having come before the Court on Defendant's Motion to Dismiss, and the Court, having carefully considered the materials submitted in support of the motion and Plaintiff's response thereto, having heard oral argument of counsel and being otherwise fully advised in the premises, FIND and ORDERS as follows:

BACKGROUND

This case arises out of a tax deficiency for the 1991 tax year by the plaintiff, Mr. Lesoon. In 1993 the Internal Revenue Service (IRS) notified the Plaintiff of a $4,653.00 tax liability. The

IRS also informed the plaintiff that he was liable for $1,163 in penalties pursuant to 26 U.S.C. § 6651(a)(1) and $219 pursuant to 26 U.S.C. § 6654(a). The Plaintiff brought suit in Tax Court and the Government subsequently filed a motion for judgment on the pleadings. Plaintiff failed to file an amended order as directed by the court and by order dated March 22, 1994 the United States Tax Court ruled in favor of the Government's motion. Following the entry of the Tax Court's order the IRS levied against a retirement account owned by the plaintiff and received a check for $7,623.40. Plaintiff subsequently filed a compliant in the Ninth Judicial District of the State of Wyoming alleging numerous constitutional and statutory violations. This action was removed to the Federal District Court for the District of Wyoming.

ENTERED ON THE DOCKET
9-22-97
Betty A. Griess, Clerk
/s/
Jean Graefe
Deputy Clerk

STANDARD OF REVIEW

The standard of review applied to a motion to dismiss for failure to state a claim is well-established. This Court must accept as true the Plaintiff's well-pleaded factual allegations and construe them in a light most favorable to plaintiff. *Maez v. Mountain States Tel. and Tel., Inc.*, 54 F.3d 1488, 1496(10th Cir. 1995). Dismissal for failure to state a claim is appropriate only if the plaintiff can prove no set of facts in support of his claims that would entitle him to relief. *Id.* The Tenth Circuit Court of Appeals has stated that, at this stage, this Court's "function on a Rule 12(b)(6) motion is not to weigh potential evidence that the parties might present at trial, but to assess whether the plaintiff's complaint alone is legally sufficient to state a claim for which relief may be granted." *Miller v. Blanz*, 948 F.2d 1562, 1565 (10th Cir. 1991). The Federal Rules of Civil Procedure create a strong presumption against rejection of pleadings for failure to state a claim. *Maez*, 54 F.3d at 1496.

DISCUSSION

The principle of sovereign immunity limits actions against the Government in its own courts unless it consents to be sued. *United States v. Testan*, 424 U.S. 392, 399, 96 S. Ct. 948, 953, 47 L Ed.2d 114 (1976). Such an exception is found at 26 U.S.C. § 6512(a). That provision provides:

> **Effect of petition to Tax Court.** --If the Secretary has mailed to the taxpayer a notice of deficiency under section 6212(a) (relating to deficiencies of income, estate, gift, and certain excise taxes) and if the taxpayer files a petition with the Tax Court within the time prescribed in section 6213(a) . . ., no credit or refund of income tax for the same taxable year . . . in respect of which the Secretary has determined the deficiency shall be allowed or made and no suit by the taxpayer for the recovery of any part of the tax shall be instituted in any court. . . .

26 U.S.C. § 6512(a). "This statute operates as a general limitation on the general jurisdictional grant of 28 U.S.C. § 1346[.]" *Bowser v. Commissioner*, 559 F.2d 1207 (3d Cir. 1977).

> When notified of a deficiency, the taxpayer may litigate its legality either by appealing to the Tax Court before he pays, or by paying and thereafter bringing an action against the United States or the collector to recover any overpayment. But the choice of the first alterative precludes resort to the second.

Solitron Devices, Inc., v. United States, 862 F.2d 846, 848 (11th Cir. 1989) (*quoting Elbert v. Johnson*, 164 F.2d 421,423-24 (2d Cir. 1947)). Filing a petition in Tax Court extinguishes the subject matter jurisdiction of other courts.. *Id.* (citations omitted).

In this case Plaintiff alleged that the Court had subject matter jurisdictions subject to 28 U.S.C. § 1346(a). Section 6512(a) of the Internal Revenue Code stands as a resolute exception to that grant of jurisdiction. Plaintiff has in fact availed himself of the Tax Court's power. After seeking a ruling from that court the law prevents him from now coming to this court in search of better fortunes.

The complaint filed by the Plaintiff contains a long list of perceived statutory and constitutional violations committed by the IRS. These claims range from his contention that "no 'Law' established such a thing as an income tax liability" to his argument that the Tax Court was without authority to impose tax liability. Plaintiff's Complaint ¶¶ 4(h), 4(n). These various claims, however, all have one common root, the Plaintiff's tax liability for 1991. The law makes it clear that once a suit is brought in Tax Court it address all issues surrounding liability for the year in question. The Third Circuit has stated:

> [T]he fact that the [Plaintiff is] advancing issues that were not presented to the Tax court and perhaps could not have been considered by that court cannot change our conclusion. The Tax Court's jurisdiction, once it attaches, extends to the entire subject of the correct tax for the particular year. Even in cases where the issues raised by taxpayers in the district court could not have been litigated in the Tax court . . . the petition to the Tax Court bars a subsequent suit in the district court.

Koss v. United States, 69 F.3d 705, 709 (3d Cir. 1995) (internal quotes and citations omitted). The Plaintiff's tax liability for 1991 was decided by the Tax Court. When that decision was not appealed it became final. This Court does not have the power to revisit that decision in this case.

The one claim made by the Defendant that may have relevance apart from his tax liability is a claim for relief under the Taxpayer Bill of Rights. Though it is somewhat ambiguous from the Plaintiff's submissions to this Court, it appears as though he is alleging a claim pursuant to 26 U.S.C. § 7433. To commence a civil action, as allowed by this provision, a plaintiff must allege that the government acted in intentional violation of the Internal Revenue Code. 26 U.S.C. § 7433(a). While Mr. Lesoon alleges many violations of the code, he has failed to state a claim under this provision. Nowhere does he allege that those violations were willful or reckless.

The tax Court considered imposing penalties on Plaintiff for proceeding with a frivolous or groundless complaint pursuant to 26 U.S.C. § 6673(a)(1). Though it chose not to do so, the Court warned Plaintiff that "similar conduct in the future [would] result in the imposition of such a penalty." Now Plaintiff has come before this Court, again to challenge his liability for taxes on income earned during 1991. I now remind the Plaintiff of that warning, and admonish him not to consume court resources in the continued pursuit of unwarranted litigation.

CONCLUSION

Because the Court finds that Plaintiff filed a petition with the United States Tax Court, Plaintiff's action must be dismissed for lack of subject matter jurisdiction.

THEREFORE, it is

ORDERED that the United States of America's Motion to Dismiss is **GRANTED**. DATED this 22nd day of September 1997.

/s/
William F. Downes
United States District Judge

U.S. District Court
U.S. District Court for the District of Wyoming (Cheyenne)

CIVIL DOCKET FOR CASE #: 97-CV-15

Lesoon v. USA
Assigned to: Honorable William F Downes — Filed: 01/21/97
Demand: $8,000 — Jury demand: Plaintiff
Lead Docket: None — Nature of Suit: 870
Dkt # in DC9JD-Subl : is Civil No. 5808 — Jurisdiction: US Defendant

Cause: 28:1441 Petition for Removal

EDWARD LESOON
plaintiff

Edward Lesoon
[COR LD NTC] [PRO SE]
P.O. Box 3427
Alpine, WY 83128
307/886-0115

v.

UNITED STATES OF AMERICA
defendant

Carol A Statkus, Asst US Atty
[COR LD NTC]
US ATTORNEY'S OFFICE
P.O. Box 668
Cheyenne, WY 82003-0668
307/772-2124

Susan A Berson
202/307-6559
[COR LD NTC]
DEPARTMENT OF JUSTICE
Tax Division
P.O. Box 683
Ben Franklin Station
Washington, DC 20045-0683
202/307-6411

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

EDWARD LESOON,)
)
Plaintiff,)
)
v.)
)
UNITED STATES OF AMERICA,)
)
Defendant.)

FILED
DISTRICT OF WYOMING
97 JAN 24 AM 10:05

97CV 015D
No. 5808

FILED JAN 27 1997
/s/
MARILYN M. JENSEN
CLERK OF DISTRICT
COURT
PINEDALE, WYOMING

ORDER ON REMOVAL

On January 21, 1997, a Notice of Removal of the above-entitled action was filed with the Clerk of the United States District Court, District of Wyoming.

IT IS, THEREFORE, ORDERED that pursuant to Rule 81 of the local rules of this Court, the removing party shall immediately file with the clerk of the state district court a copy of the Notice of Removal. The clerk of the state district court is hereby advised that jurisdiction over the parties and subject matter of the above-entitled action is deemed removed from the state district court to the United States District Court for the District of Wyoming upon the filing of the Notice of Removal with the clerk of the state district court.

IT IS FURTHER ORDERED that in the event a hearing is pending in state district court when the Notice of Removal is filed with the clerk of the state district court, the removing party shall immediately notify the state district court judge of the removal of this action.

IT IS FINALLY ORDERED that the removing party shall file with the Clerk of this Court certified copies of all records and proceedings in the state district court within ten (10) days after receipt of this Order.

Dated this 24th day of January, 1997.

/s/
William F. Downes
UNITED STATES
DISTRICT JUDGE

THE STATE OF WYOMING
COUNTY OF SUBLETTE

COURT STAMP

/s/
Marilyn M. Jensen

CERTIFIED A TRUE COPY:
Betty A. Griess
Clerk

/s/
Jean Graefe
DEPUTY CLERK

UNITED STATES TAX COURT
Washington, D.C. 20217

EDWARD LESOON,)
)
Petitioner,)
)
v.) Docket No.
) 21573-93S.
COMMISSIONER OF INTERNAL REVENUE,)
)
Respondent.)

ORDER AND ORDER AND DECISION

This matter is before the Court on respondent's Motion for Judgment on the Pleadings filed February 7, 1994. The facts pertinent to the disposition of this matter are set forth below. [1]

On July 15, 1993, respondent issued a notice of deficiency to Edward Lesoon (petitioner) determining a deficiency in and additions to his Federal income tax for the 1991 taxable year as follows:

	Additions to tax	
Deficiency	Sec. 6651(a)(1)	Sec. 6654(a)
$4,653	$1,163	$219

Petitioner filed a petition with this Court on October 7, 1993. [2] In response, respondent filed the Motion for Judgment on the Pleadings pending before the Court. Respondent's motion includes a request for a penalty under section 6673(a)(1).

By order dated February 10, 1994, the Court directed petitioner to file an amended petition on or before March 8, 1994, setting forth with specificity each error allegedly made by respondent in the determination of the deficiency and separate statements of each fact upon which petitioner bases the assignment of error. Petitioner failed to comply with the Court's order.

Respondent's motion was set for hearing in Washington, D.C., on March 16, 1994. Counsel for respondent appeared and presented argument on the motion. In lieu of appearance, petitioner filed with the Court on March 14, 1994, a Motion to Change Place of Hearing (which the Court orally denied at the hearing), as well as several statements pursuant to Rule 50(c).

Rule 120(a) provides that after the pleadings are closed and within such time as not to delay the trial, any party may move for judgment on the pleadings. A motion for judgment on the pleadings is appropriate only where the pleadings do not raise a genuine issue of material fact, but rather involve issues of law. Thus, respondent's motion is to be granted only if, on the admitted facts, she is entitled to a decision as a matter of law. Anthony v. Commissioner, 66 T.C. 367 (1976). The determinations made by respondent in the notice of deficiency are presumed correct; the burden of proof is on petitioner to show that these determinations are erroneous. Rule 142(a); Welch v. Helvering, 290 U.S. 111 (1933); Rockwell v. Commissioner, 512 F.2d 882, 887 (9th Cir. 1975), affg. T.C. Memo. 1972-133.

The petition filed herein contains tax protester-type arguments with respect to the deficiencies determined in the notice of deficiency. All of the arguments espoused in the petition have been uniformly rejected by this and other courts. Rowlee v.

---

[1] Section references are to the Internal Revenue Code as amended. Rule references are to the Tax Court Rules of Practice and procedure.

[2] At the time of filing his petition herein, petitioner resided in Afton, Wyoming.

Commissioner, 80 T.C. 1111 (1983). Petitioner did not comply with the Court's order to file an amended petition. Rather, petitioner filed several statements pursuant to Rule 50(c) that at best expound upon the meritless arguments made in the petition.

The absence in the petition of specific justiciable allegations of error and supporting facts is sufficient to grant a motion for judgment on the pleadings. Abrams v. Commissioner, 82 T.C. 403, 408 (1984). Based on the contents of the petition filed herein, we hold that respondent is entitled to judgment as a matter of law.

Section 6673(a)(1) provides that the Court may impose a penalty not exceeding $25,000 whenever it appears that a taxpayer's position in a proceeding is frivolous or groundless. Such a penalty has been imposed against taxpayers who raised arguments similar to those raised in the petition herein. Carter v. Commissioner, 784 F.2d 1006 (9th Cir. 1986), affg. an unreported decision of this Court; Abrams v. Commissioner, supra. While the Court is inclined to deny that portion of respondent's motion requesting an award under section 6673(a)(1), petitioner is nonetheless warned that similar conduct in the future will result in the imposition of such a penalty.

Accordingly, upon due consideration and for cause, it is

ORDERED: That petitioner's Motion to Change place of Hearing, filed March 14, 1994, is denied. It is further

ORDERED: That the portion of respondent's Motion for Judgment on the Pleadings seeking judgment in respondent's favor with respect to the deficiency and additions to tax set forth in the deficiency notice at issue in this case is granted. It is further

ORDERED: That the portion of respondent's Motion for Judgment on the Pleadings seeking a penalty pursuant to section 6673(a)(1) is denied. It is further

ORDERED AND DECIDED: That there is a deficiency in and additions to petitioner's Federal income tax for the 1991 taxable year as follows:

	Additions to tax	
Deficiency	Sec. 6651(a)(1)	Sec. 6654(a)
$4,653	$1,163	$219

/s/
Robert N. Armen, Jr.
Special Trial Judge

Entered: MAR 21 1994

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

EDWARD LESOON, Plaintiff - Appellant, v. UNITED STATES OF AMERICA, Defendant - Appellee.	No. 97-8105

ORDER

Filed August 10, 1998

Before **BALDOCK, EBEL** and **MURPHY**, Circuit Judges.

Appellant's petition for rehearing is denied.

Entered for the Court
PATRICK FISHER, Clerk of Court

/s/
Deputy Clerk

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT
OFFICE OF THE CLERK
BYRON WHITE UNITED STATES COURTHOUSE
1823 STOUT STREET
DENVER, COLORADO 80257
(303) 844-3157

PATRICK FISHER
CLERK

ELISABETH A. SHUMAKER
CHIEF DEPUTY CLERK

July 15, 1998

Ms. Betty Griess
Clerk
United States District Court for the District of Wyoming
P.O. Box 727
Cheyenne, WY 82001

Edward Lesoon
P.O. Box 3427
Alpine, WY 83128

Pamela C. Berry
Department of Justice
Income Tax & Accounting Branch
P.O. Box 502
Field Service Division
Washington, DC 20044

Mr. David D. Freudenthal
U.S. Attorney
Ms. Carol A. Statkus
Asst. U.S. Attorney
Office of the United States Attorney
P.O. Box 668
Cheyenne, WY 82003

Ms. Teresa E. McLaughlin

United States Department of Justice
Tax Division
P.O. Box 502
Room 4324
Washington, DC 20044

Re: 97-8105, Lesoon v. USA
Dist/Ag docket: 970CV-015-D,

Dear Clerk, Mr. Lesoon and Counsel:

The court's order and judgment was filed in the subject case today. A copy of the order and judgment is enclosed for all parties.

In accordance with Fed. R. App. P. 41, I enclose for the clerk of the trial court, or for the named agency, a certified copy of the order and judgment, which constitutes the mandate. By direction of the court, the mandate shall be filed immediately in the records of the trial court or agency.

The clerk will please acknowledge receipt of this mandate by file stamping and returning the enclosed copy of this letter. Any original record will be forwarded to you at a later date.

Please Contact this office if you have questions.

Sincerely,

PATRICK FISHER
Clerk

By: L. Balzano
Deputy Clerk

PF:lwb
cc:

William F. Downes, District Judge

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

EDWARD LESOON,

Plaintiff - Appellant,

v.

UNITED STATES OF AMERICA,

Defendant - Appellee.

No. 97-8105

ORDER

Filed February 17, 1998

Appellant's "Statement of Reasons for Oral Argument," is construed as a motion to present oral argument. That motion is denied.

Entered for the Court
PATRICK FISHER, Clerk of Court

/s/
Amy Burt
Deputy Clerk

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT
OFFICE OF THE CLERK
BYRON WHITE UNITED STATES COURTHOUSE
1823 STOUT STREET
DENVER, COLORADO 80257
(303) 844-3157
PATRICK FISHER ELISABETH A. SHUMAKER
CLERK CHIEF DEPUTY CLERK

February 5, 1998

Edward Lesoon
P.O. Box 3427
Alpine, WY 83128

Pamela C. Berry
Department of Justice
Income Tax & Accounting Branch
P.O. Box 502
Field Service Division
Washington, DC 20044

Mr. David D. Freudenthal
Ms. Carol A. Statkus
Asst. U.S. Attorney
Office of the United States Attorney
P.O. Box 668
Cheyenne, WY 82003

Ms. Teresa E. McLaughlin
Mr. Charles Bricken
United States Department of Justice
Tax Division
P.O. Box 502
Room 4324
Washington, DC 20044

O. Christopher Meyers
O. Christopher Meyers, Inc.
15 N.W. 44th Street
Lawton, OK 73505

Mr. Stuart L. Brown
Chief Counsel
Internal Revenue Service
Branch 4, Tax Litigation Division
1111 Constitution Avenue, N.W.
Washington, DC 20224

Re: 97-8105, Lesoon v. USA
Dist/Ag docket: 97-CV-015-D,
97-9015, Corde Finance v. CIR
Dist/Ag docket: 27258-93,

Dear Counsel:

This case has been referred to a three-judge panel to determine whether oral argument is necessary. After examination of the briefs and record on appeal, the panel is unanimously of the opinion that oral argument is not needed.

In accordance with Fed. R. App. P. 34 (a) and 10th Cir. R. 34.1.9, the court intends to submit the case on the briefs and record for final disposition. Any party may, within ten days of the date of this order, file with the court a statement of reasons for oral argument.

Please contact this office if you have questions.

Sincerely,

PATRICK FISHER
Clerk

/s/
Deputy Clerk

PF: bjv

UNITED STATES DISTRICT COURT
DISTRICT OF WYOMING

EDWARD LESOON

V.

UNITED STATES OF AMERICA

FILED
U.S. DISTRICT COURT
97 JUN 18 PM 2 47
DISTRICT OF WYOMING
CASPER
CLERK

NOTICE

CASE NUMBER:97CV 0015-D

TYPE OF CASE: **CIVIL**

TAKE NOTICE that a proceeding in this case has been set for the place, date, and time set forth below:

PLACE Ewing T. Kerr Federal Courthouse 111 South Wolcott Casper, Wyoming Room: Courtroom #2	BEFORE William F. Downes, U.S. District Judge
	DATE AND TIME 9/4/97 AT 1;30 pm

TYPE OF PROCEEDING

HEARING ON MOTION TO DISMISS

BETTY A GRIESS
Clerk of the Court

June 18, 1997
DATE

Jean Graefe
DEPUTY CLERK

TO:
Edward Lesoon
Carol Statkus
Susan Berson

DAVID D. FREUDENTHAL
United States Attorney

DONALD R. WROBETZ
Assistant United States Attorney
P.O. Box 668
Cheyenne, WY 82003
(307) 772-2124

SUSAN A. BERSON
Trial Attorney, Tax Division
P.O. Box 683, Ben Franklin Station
Washington, D.C.20044
(202) 307-6559

STATE OF WYOMING) IN THE DISTRICT COURT
)ss.
COUNTY OF SUBLETTE) NINTH JUDICIAL DISTRICT

Civil Action No. 5808

EDWARD LESOON,) FILED
)
Plaintiff,) JAN 23 1997
v.)
) s/
UNITED STATES OF AMERICA,) MARILYN M. JENSEN
) Clerk of District Court
Defendant.) Pinedale, Wyoming

NOTICE OF THE FILING OF A NOTICE OF REMOVAL

TO: Marilyn Jensen, Clerk
Ninth Judicial District Court
Box 292
Pinedale, WY 82941

DAVID D. FREUDENTHAL
United States Attorney

DONALD R. WROBETZ
Assistant United States Attorney
P.O. Box 668
Cheyenne, WY 82003
(307) 772-2124

SUSAN A. BERSON
Trial Attorney, Tax Division
P.O. Box 683, Ben Franklin Station
Washington, D.C. 20044
(202) 307-6559

FILED
DISTRICT OF WYOMING
CHEYENNE

97 JAN 21 PM 2 21

CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

EDWARD LESOON,)
)
Plaintiff,)
v.)
) No. 97CV 015-D
UNITED STATES OF AMERICA,)
)
Defendant.)

NOTICE OF REMOVAL

COMES NOW the defendant, United States of America, by its counsel, David D. Freudenthal, United States Attorney for the District of Wyoming; Donald R. Wrobetz, Assistant United

States Attorney for the District of Wyoming; and Susan A. Berson, Trial Attorney, Tax Division, United States Department of Justice, Pursuant to 28 U.S.C. § 1446 and U.S.D.C.L.R. 81, and respectfully provides notice of removal as follows:

1. The defendant and petitioner for this removal was served on January 2, 1997, with a Summons and Complaint and discovery requests, filed in the Ninth Judicial District Court for the State of Wyoming, docketed as Civil Case No. 5808. A copy of the documents served on defendant is attached hereto as Exhibit A.

2. This petition for removal is brought pursuant to 28 U.S.C. § 1441, as the action in state district court is a suit against the United States founded on claims or rights arising under the Constitution and laws of the United States, particularly those for the collection of the revenue, and of which the District Courts of the United States have original jurisdiction. This action appears to invoke claims seeking injunctive relief against further collection activity wherein the United States would be the proper party. The action in state district court is being removed by this notice within thirty (30) days of the receipt of the Summons and Complaint by the defendant.

WHEREFORE, this action filed in the Ninth Judicial

District Court for the State of Wyoming is properly removed therefrom to this Court pursuant to 28 U.S.C. §§ 1441, 1442, and 1446.

DATED this 21st day of January, 1997.

DAVID D. FREUDENTHAL
United States Attorney

/s/
DONALD R. WROBETZ
Assistant United States Attorney

/s/
SUSAN A. BERSON
Trial Attorney, Tax Division
U.S. Department of Justice

CERTIFICATE OF SERVICE

This is to certify that on the 21st day of January, 1997, the undersigned served a true and correct copy of the foregoing NOTICE OF REMOVAL upon the following by placing the same in the United States mail, postage prepaid, addressed to:

Edward Lesoon
P.O. Box 3427
Alpine, WY 83128

/s/
DONALD R. WROBETZ

AMENDED COPY

The Court of Appeals of the United States
For the Tenth Circuit
Office of the Clerk
Byron White United States Courthouse
1823 Stout Street
Denver, Colorado 80257

Edward Lesoon	)	
	)	No. 97-8105
Citizen in Party/Appellant	)	(D.C.No. 97-CV-015-D)
	)	(D. Wyo)
V.	)	
	)	
United States of America	)	
	)	
Appellee	)	

Refuse Order and Judgment for Fraud

Comes now Citizen in Party/Appellant Edward Lesoon under Title 4, U.S.C. 1 and 2 American Flag of Peace and under the Constitution of the United States of America Amendment the 1st, the 5th, the 7th, the 8th, the 10th, the 11th and the 14th, hereby, refuse and declare order and Judgment of July 15, 1998 by Circuit Judges of the Appeals Court of the Tenth Circuit to be a total fraud, references to violation of Federal Rules of Civil Procedure 12(B)(3) being the decision in the wrong venue of Foreign Flag and foreign jurisdiction of the yellow fringed flag.

Submitted,

/s/Edward Lesoon

Mr. Edward Lesoon

Appellant/Citizen in Party
P.O. Box 3427
Alpine, WY. 83128

cc. Ms. Betty Griess, Pamela C. Berry, Mr. David Freudenthal,
Ms. Teresa E. Mclaughlin

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

OFFICE OF THE CLERK
BYRON WHITE UNITED STATES COURT HOUSE
1823 STOUT STREET
DENVER, COLORADO 80257
(303)844-3157

Edward Lesoon **Citizen in Party - Appellant** V. **UNITED STATES OF AMERICA** **Defendant - Appellee.**	**DIST/AG DOCKET** **97-015-D** **REF: 97-8105**

Reference to your letter and order of August 10, 1998, (copy enclosed), for the rehearing petition being denied, for case number 97-8105 Lesoon V. United States of America., I hereby refuse your order, for Fraud and Corruption under and reference to Title 42 United States Code Sections 1986, 1985, 1983, 1982.

Citizen in Party

/s/Edward Lesoon

Mr. Edward Lesoon
Citizen In Party
P.O. Box 3427
Alpine, Wyoming 83128
(307)886-0115
copies to WY U.S. Attorneys

David D. Freudenthal
Carol A. Statkus
Gov. Atts:
Pamela C. Berry
Teresa E.

CERTIFICATE OF MAILING

I, the undersigned, hereby certify that I mailed a copy of Notice to the following on this 20th day of August, 1998 by certified U.S.Mail at Afton, Wyoming 83110

To:

The Appeal Court of The United States for the Tenth Circuit
Office of the Clerk
Byron White United States Court House
1823 Stout Street
Denver, Colorado 80257
(303)844-3157

Citizen in Party/Petitioner
Edward Lesoon
P.O. Box 3427
Alpine, Wyoming 83128

/s/Edward Lesoon
Citizen in Party/Petitioner

/s/
Katherine Wright
Notary

Notary Stamp

This case is under Title 4 United States of America Code 1and 2
American Flag of Peace

THE APPEAL COURT OF THE UNITED STATES
FOR THE TENTH CIRCUIT
OFFICE OF THE CLERK
BYRON WHITE UNITED STATES COURT HOUSE
1823 STOUT STREET
DENVER, COLORADO 80257
(303)844-3157

Edward Lesoon)
)
Citizen in Party)
Appellant) No. 97-8105
) (D.C.No. 97-CV-015-D)
V.) (D.Wyo)
United States of America)
)
Appellee)

Motion Requesting Stay of Mandate Pending petition for Writ Error-Certiorari with the Supreme Court of the United States of America

For Subject matter Jurisdiction, of this Common Law Case title above, has been and is under Title 4 United States of America Code 1 and 2 American Flag of Peace.

Comes now Citizen in Party/Appellant, Edward Lesoon under Constitution of United States of America Amendment the seventh under Common Law and under Title 4 United States of America Code 1 and 2 American Flag of Peace.

Rules of Civil procedure, Rule 60 (b) and Federal Rule of Civil Procedure, Rule 38 (a), the case title above is under the Title 4 United States Code 1 and 2 American Flag of Peace, referenced under Presidential Executive Order 10834, and under the

Constitution of the United States Article the sixth, Section the third: No "State" (Natural Party) shall be created from any state (land) and United States Code A. 11: "Foreign State" (Law of the Flag) shall have jurisdiction over a Sovereign Citizen in Party, and Article the one, Section the nine: No Title of Nobility under any foreign flag jurisdiction and in breach of the treaty of Title 28 United States Code 1605 "Foreign Sovereign Immunity Act" of October 21, 1976 and in breach of the constitution of the United States of America, will be allowed in the jurisdiction of this case.

Breach of the contract will cause sanction under Federal Rules of Civil Procedure rule 16(f). When the Constitution of the United States is surrendered for a foreign states/power, will cause the breach of contract, of Oath or affirmation for the Constitution of the United States of America, then charges for Perjury of Oath Title 18 United States of America, and false swearing will be brought against the officers of the court responsible.

Citizen in Party/Appellant does invoke this Court Jurisdiction as to the Constitution of the United States Amendments the first, the fourth, the fifth, the sixth, the seventh, the eighth, the ninth, the thirteenth, and the fourteenth Section the one. Also Article the third, Sections the first and the second of the United States Constitution.

Comes now Edward Lesoon Citizen in Party/Appellant to request the Appeal Court of the United States for Stay of Mandate for Writ of Error of Certiorari pending petition to the Supreme Court of the United states of America. The petition for Writ of Error of Certiorari will demonstrate the substantial question valid cause for stay, based on law, facts, statutes and the Constitution of the United States of America.

Sincerely,

/s/Edward Lesoon

Edward Lesoon
Citizen in Party/Appellant
P.O. Box 3427
Alpine, Wyoming 83128
/s/
/s/Lisa Hokanson
Notary Public

Notary Stamp

IN THE UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

Edward Lesoon	)	
Citizen in Party/Appellant	)	No. 97-8105 (D.C.No.97-CV-015-D) (D.Wyo.)
V.	)	
United States of America	)	
Appellee	)	

DECLARATION

I, Edward Lesoon, citizen in Party/Appellant, a natural person with Constitutional Rights, and a natural person in litigation, in nature person form and a human being. In this capacity it is my responsibility in handling this case, No. 97-8105, under Title 4 United States Code 1 and 2 Flag. The facts set forth in the accompanying Motion Requesting Stay of Mandate Pending Petition for Writ Error-Certiorari with the Supreme Court of the United States of America, which is now filed in a timely manner, and the information is true to the best of my knowledge.

/s/Edward Lesoon

Edward Lesoon
Citizen in Party/appellant
P.O. Box 3427
Alpine, Wyoming 83128
(307)886-0115

/s/
Lisa Hokanson
Notary Public

Notary Stamp

CERTIFICATE OF MAILING

I, the undersigned, hereby certify that I mailed a copy of Notice to the following on this ________ day of ___________, 1998 by certified U.S. Mail at Alpine, Wyoming 83128.

To:

The Appeal Court Of The United States
For the Tenth Circuit
Office of the Clerk
Byron White United States Court House
1823 Stout Street
Denver, colorado 80257

Pamela C. Berry
Department of Justice
Income Tax and Accounting Branch
P.O. Box 502
Field Service division
Washington, D.C 20044

Mr. David D. Freudenthal
U.S. Attorney
Ms. Carol A. Statkus
Asst. U.S. Attorney
Office of the United States Attorney
P.O. Box 669
Cheyenne, WY. 82003

Ms. Betty Griess
Clerk
United States District Court for the District of Wyoming
P.O. Gox 727
Cheyenne, WY 82001

Ms. Teresa E. McLaughlin
United States Department of Justice
P.O. Box 502
Room 4324
Washington, D.C. 20044

William F. Downes
District Judge
United States District Court
District of Wyoming
111 South Wolcot
P.O. Box 1519
Casper, Wyoming 82602

/s/Edward Lesoon

Mr. Edward Lesoon
Citizen in Party/Appellant
P.O. Box 3427
Alpine, Wyoming 83128
/s/
Lisa Hokanson
Notary Public

Notary Stamp

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT
OFFICE OF THE CLERK
BYRON WHITE UNITED STATES COURT HOUSE
1823 STOUT STREET
DENVER, COLORADO 80257

EDWARD LESOON	)	
Citizen in Party/Appellant	)	DIST/AG DOCKET 97-015-D
V.	)	
UNITED STATES OF AMERICA	)	REF: 97-8105
Appellee	)	

MOTION TO REBUTTAL AND DISMISS APPELLEE'S BRIEF FOR ERROR OF FACTS

Comes now the Citizen in Party/Appellant, Edward Lesoon to request this Honorable Court of Appeals to review and consider all the enclosed Facts.

Under U.C.C. 3-501: Under Title 42 U.S.C. 1986 for knowledge of the law for Federal Rules of Civil Procedure, Rule 60(b) and Federal Rules of Civil Procedure, Rule 38(a), the case title above is under the Title 4 United States Code. 1 American Flag, referenced under Presidential Executive Order 10834, and under Article 6 Section (3): Oath of Fiduciary Officers of the Court, and under Article (4) Section (3): No "State" (Natural Party) shall be created from any state (land) and United States Code. A. 11: "Foreign State" (Law of the Flag) shall have jurisdiction over a sovereign Citizen in Party, and Article (1) Section (9): No titles of Nobility under any foreign flag jurisdiction and in breach of the treaty of Title 28 United States Code. 1605 "Foreign Sovereign Immunity Act" of October 21, 1976 and in breach of the Constitution of the United States of America, will be allowed in the jurisdiction of this case.

Breach of the contract will cause sanction under Federal Rules of Civil Procedure rule 16(F). When the Constitution of the United States is surrendered for a foreign states/power, will cause the breach of contract, of Oath or Affirmation, for the Constitution of the United States of America, then charges for Perjury of Oath Title 18 United States Code. 1621, Constructive Treason, and contempt for the Constitution of the United States of America, and false swearing will be brought against the officers of the Court responsible.

Appellant/Citizen in Party does invoke this Court Jurisdiction pursuant to the 1st Amendment of the United States Constitution and to the 4th, 5th, 6th, 7th, 8th, 9th, 13th, Amendments, and 14th Amendment Section I. also Article III, Sections 1 and 2 of the United States Constitution.

The Appellant/Citizen in Party has no liability for any alleged income tax for year 1991. "As a matter of Law, I request this Honorable appeal Court to cite to Citizen in Party/Appellant the statute that makes Citizen in Party/Appellant liable to pay income tax based on a return, and cite to Citizen in party/Appellant its "Legislative Implementing Regulations". Citizen in Party/Appellant request this Honorable Appeal Court to dismiss and void the Brief by Appellee and their Attorneys dated January 14, 1998, for error of facts and corruption.

Comes now Edward Lesoon, Citizen in Party/Appellant to file a motion to strike the Appellee and attorney Brief submitted on January 14, 1998 for its contents are nothing but lies from start to finish, and in perpetration of fraud, extortion, conspiracy and theft. It is in further and complete violation of the Constitution of the United States of America 1st, 4th, 5th, 13th, and 14th Amendments, since Citizen in Party/Appellant is not liable for the alleged income tax and did not violate any legal known duty. It is fully preposterous for the Appellee and their attorney to presume, to allege and perpetrate an illegal liability without any support of any law. The Citizen in Party/Appellant therefore challenges the Appellee and their attorney to cite to Citizen in Party/Appellant the statute that makes Citizen in Party/Appellant liable for the alleged income tax and its Legislative Implementing Regulation. Citizen in Party/Appellant further challenges Appellee and their attorney to cite the violated legal known duty.

Citizen in Party/Appellant further declares that the Appellee and their attorney are in total error of all alleged Income Tax and presumed liability. Since our income tax system is based on voluntary self assessment not distraint (force) See Flora V. U.S. 362 U.S. 145, 176, Bothke V. Terry, 713. F2d 1405, Laing V. United States of America 96 S. Ct. 473, Cheek V. United States of America 111 S Ct. 604, United States of America V. Benson 841 F2d 598.

Furthermore, Citizen in Party Believes that the appellee brief does not address the issue, and understanding of the appeal. The issue is the year 1991, not 1992-1993, which was perpetrated only to cloud the issue.

If in fact the Appellee and their attorney maintain that the Citizen in Party/Appellant is liable for the alleged filing and paying of income tax, they are hereby challenged to prove it under Internal Revenue Code Section 6501-c-3. Further more let it be clearly understood by all parties that the Citizen in Party/Appellant intend to further pursue this case to the Supreme Court of the United States of America if need be.

Citizen in Party/Appellant further declares and request from the Appellee and their attorneys the following:

Demand for jurisdiction/authority, information from Appellee and their attorneys and notice of challenge of same.

Take notice that the Citizen in Party/Appellant does hereby demand that the Appellee and their attorneys hereby advise the Citizen in Party/Appellant immediately as to each and every claim of jurisdictional authority the appellee and their attorney enjoys, perpetrates and/or otherwise claims to have which provides jurisdiction and/or authority over Citizen in Party/Appellant. This is to also include, but not limited to, Constitutional, Statutory Law and/or contract.

The information required is most necessary to enable the appellant to adequately prepare a meaningful and affirmative defense to the perpetrated fraud and extortion of the alleged charges, allegations and/or penalties imposed this protecting Citizen in Party/Appellant Constitutional Rights to the 1st, 4th, 5th, 13th, and 14th amendments of the Constitution of the United States of America and Citizen in Party/Appellant rights to Due Process and Equal Protection.

Should the Appellee and their attorneys claim contract law/jurisdiction, Citizen in Party/Appellant does hereby demand to know what contract, (including but not limited to, title, date, signatures, witness(s) thereto, and all parties thereto who have knowingly and willfully entered into to provide the statute) that provides for liability to pay the alleged income tax based on a return and its Legislative Implementing Regulations. In the interpretation of statutes levying taxes it is the established rule not to extend their provisions, by implication beyond the clear import of the languages used or to enlarge their operations so as to embrace matters not specifically pointed out. In case of doubt they are construed most strongly against the government, and in favor of the citizen. See: The United States of America V. Wigglesworth, 2 Story 369; American Net and Twine Co. V. Worthington, 141 U.S. 468, 474; Benziger V. The United States of America, 192 U.S. 38, 55.

Therefore comes now Citizen in Party/appellant to request this Honorable Appeal Court to strike the Brief by Appellee and their attorneys of January 14, 1998, for lack of facts, perpetration of fraud, extortion and conspiracy and disallow any further perpetrated corruption.

The Appellee's Attorneys Pamela C. Berry and Teresa E. McLaughlin Brief dated January 14, 1998, is nothing but lies, fraud, and extortion against the Citizen in Party/appellant, Edward Lesoon. Their corrupt intention is to deny and deprive Citizen in Party/Appellant, Due Process of Law under the 1st, 6th, 7th, 14th, Amendments of the Constitution of the United States of America.

Citizen in Party/Appellant did not file a frivolous appeal by right and Due Process Citizen in Party/appellant paid for the legal right under the Constitution for the appeal. Citizen in Party/Appellant did not file a frivolous appeal, since the Citizen in Party/Appellant has the right to due Process, petition the Appellee for redress of grievances, and in accordance to all required procedures of the Internal Revenue Code of 1954.

Further note that Citizen in Party/Appellant obviously did not:

1) File a frivolous appeal by means of fraud as alleged by the Appellee's attorneys,
2) The complaint is not a tax-protester type as alleged by the Appellee's attorneys,
3) Did not and has not any alleged Income Tax Liability for year at issue 1991,
4) Did not violate any legal know duty.

It is completely ludicrous, conspiracy and fraud, for the corrupt Appellee, attorneys Pamela C. Berry and Teresa E. McLaughlin to perpetrate an assumption, presumption, conclusion, in regards to the Law since the Law deals only in Law, Rules of Law, Truth and Procedures. However since the Appellee's attorneys are engaged in the service and employment of a corrupt agency, the Internal Revenue Service, (Gestapo) the Appellee's attorneys Pamela C. Berry, and Teresa E. Mclaughlin are being paid and trained to distort the law in any way they desire, and continue with an ongoing conspiracy, fraud and corruption, to insure further collapse of our civil justice system, and Due Process of Law.

Citizen in Party/Appellant wishes to remind the Honorable Court of appeal, Court of Appeal prevents the accused from being railroaded. It protects citizens against neglectful judges, inept and corrupt lawyers, or the use of illegal force by Appellee.

A victory gained by provoking judicial blinders is a victory all the same, by the Appellee's attorneys Pamela C. Berry and Teresa E. McLaughlin rating truth in our judicial system to low among the values that institutions of justice are meant to serve, and deny Due Process in a Court of Law. The encouragement of the way the Appellee's attorneys want the judicial system to work only diminishes the truth and fosters the excess good to gain the upper hand. The goal of the Appellee's attorneys Pamela C. Berry and Teresa E. McLaughlin has become victory not truth, with their professional culture of misconduct so pervasive and so profound that it is unrecognizable as Law, justice, and Due Process. Let us remember that legal procedure is a means not an end.

Therefore, the purpose of procedure of Law should be to enhance the Law, not to delay or defeat the laws intention. It only stands to reason that a primary objective of procedural rules in law should be to facilitate the discovery of truth.

It is hornbook Law that before a Court can have jurisdiction, there must be a Federal Statute capable of being violated.

The Appellee and their attorneys are in violation of Citizen in Party/Appellant Constitutional Rights under the 1st, 4th, 5th, 13th, and 14th Amendments.

The Brief dated January 14, 1998, is lie, corrupt, illegal, extortion and fraud since the Appellee and their attorneys did not provide the Citizen in Party/Appellant with copy of statute that makes Citizen in Party/Appellant liable for the alleged income tax and its legislative Implementing Regulations, as requested many times.

"The Taxpayer must be liable for the income tax, tax liability is a condition precedent to the demand, merely demanding payment even repeatedly does not cause liability." See Bothke V. Fluor engineers and Contractors, 713 F2d 1405 (1983). Further not Supreme Court of the United States Justice John Marshall, "The power to tax involves the power to destroy." See McCullock V. Maryland, 4 Wheat, 17 U.S. 316, 415, 431 (1819). Citizen in Party/Appellant right to rely upon the Supreme Court cannot be questioned: "Liability for taxation must clearly appear from statute imposing tax". See Higley V. Commissioner of Internal Revenue Service 69 F2d 160. The collection of taxes should be enacted only from person upon whom a tax liability imposed by some statute." See Botta V. Scanlon 288 F2d 509.

"In the interpretation of statutes levying taxes, it is the established rule not to extend their provisions by implication beyond the clear import of the language used, or to enlarge their operation so as to embrace matters not specifically pointed out. In case of doubt they are construed most strongly against the government, and in favor of the Citizen." See Gould V. Gould, 245 U.S. 151.

"The individual cannot be taxed for the mere privilege of existing, his rights to live and own property are natural rights for the enjoyment of which an excise cannot be imposed." See Redfield V. Fisher 292 P. 813, 819 (1930).

Citizen in Party/Appellant truly believes that the corrupt Appellee and their corrupt attorneys are in full perpetration and violation. Title 28 U.S.C. 242 - Deprivation of Rights under Color of Law, provides in pertinent part; whoever, under Color of Law Statute, ordinance, regulation, or custom,- willful subjects any inhabitant of any state, territory, or district to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or Laws of the United States. . . shall be fined not more than $1000.00 or imprisoned not more than one year, or both. The Appellee and their attorneys only contend the presumptions of liability, but does not actually make the Citizen in Party/Appellant liable by statute of Legislative Implementing Regulations.

See:

Bivens V. Six Unknown Agents, 403 us 388, 29 LDEd2d 619, 91 S. Ct. 1999 (1970) - When a government agent acts in an unconstitutional manner he becomes liable for money damages.

Guam V. Dergurgur, 800 F2d 1470 (9th Cir. 1986)

Blackledge V. Perry, 417 US 21, 40 LEd2d 628, 94 S. Ct. 2098 (1974) - It is unconstitutional deprivation of Due Process for government to penalize person merely because he has exercised protected statutory or constitutional right.

US V. Johnson, 968 F2d 768 (8th Cir. 1992)

US V. Solivan, 937 F2d 1146 (6th Cir. 1991) - "Single Misstep" on party of prosecutor may be so destructive of right to a fair trial that reversal is required.

Bar MK Ranches V. Yeuther, 994 F2d 735 (10th Cir. 1993)

- Administrative agencies are required to follow their own regulations.

Title 28 United States Code 2072. Rules of civil procedure.

The Supreme Court shall have the power to prescribe by general rules, the forms of process, writs, pleadings and motions, and the practice and procedure of the district courts and courts of appeals of the United States in Civil actions, including admiralty and maritime cases, and appeals therein, and the practice and procedure in proceedings for the review by the courts of appeals of decisions of the Tax Court of the United States and for the judicial review or enforcement of orders of administrative agencies, boards, commissions, and officers.

Such rules shall not abridge, enlarge or modify any substantive right and shall reserve the right of trial by jury as at common law and as declared by the Seventh Amendment to the Constitution"

Take notice: Constitution of the United States Article III, Section 1. "The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Office during good Behavior. . ."

Article III, Section 2. "The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States. . ." "the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, . . ."

Article VI of the Constitution of the United States - "The Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land;"

Citizen in Party/Appellant wishes to remind the Court that a victory gained by provoking and manipulating judicial blunders is a victory all the same. Citizen in Party/Appellant is requesting the Honorable Appeals Court to reverse the illegal and corrupt decision made by Judge William F. Downes on September 22,

1997. Judge William F. Downes clearly and intentionally committed and perpetrated fraud against Citizen in Party/Appellant, and denied Citizen in Party/Appellant day in court, right to the court and Due Process of Law. judge William F. Downes misrepresented himself before the court, by neglecting the Constitution of the United States of America, Judge William F. Downes knew exactly what he intended to do to Citizen in Party/Appellant before Citizen in Party/Appellant even entered the Court. Judge William F. Downes was in fact committing fraud against Citizen in Party/appellant under Title 18 United States Code 3 Accessory before the fact.

Citizen in Party/Appellant was injured by the Respondents/Appellee and officers of the Court and most of all by Judge William F. Downes, who had knowledge of the wrong committed in violation of the Constitution of the United States of America, as well as Citizen in Party/Appellant Constitutional Rights.

Citizen in Party/Appellant states: Under Due Process of Law under the Constitution of the United States Amendments #5, #7 and #14, Citizen in Party/Appellant was injured under the neglect of the Constitution of the United States of America and Due Process.

A Common Law hearing has been conducted under Article 3 of the Constitution of the United States of America, and Title 4, United States Code 1 American Flag, within the designated time and place, for presenting, Citizen in Party/Appellant was injured process of law by Judge William F. Downes. The Citizen in Party/Appellant was injured by fraud, that makes Judge William F. Downes the supreme ruler of a foreign state/power by neglecting the Constitution of the United States of America. The Constitution of the United States of America would have protected the Citizen in Party/Appellant before the Court. No disclaimer contract of the notice of will of intent, was presented to the Citizen in Party/Appellant before entering the bar, hence forth, treason. This lack of disclaimer contract will void any contract by standards of international treaty or contract. The Act of Conspiracy by committing Constructive Treason with knowledge, (Title 42 United States Code 1986) and neglect by stopping the jurisdictional wrong under Title 18 United States Code 242 Deprivation of Rights Under Color of Law by William F. Downes and respondent officers of the Court Obstruction of Justice under Title 18 United States Code 1512, denying testimony into the Court record, while acting in conspiracy by Judge William F. Downes and Respondent, by neglecting Due Process of Law under the 5th, 7th, and 14th Amendments of the Constitution of the United States of America. The conspiracy by Judge William F. Downes and Respondent officers of the Court present in Court under title 18 United States Code 241, and a civil conspiracy under Title 42 United States Code 1985(1).

Furthermore Judge William F. Downes and Appellee committed Perjury of Oath of Office and Constructive Treason and Contempt of the Constitution of the United States of America a Cause of Action under Title 42 1983 Ch. 21 at notes 310-337. Citizen in Party/Appellant states: Under Due Process of Law under the 5th, 7th, and 14th Amendments of the Constitution of the United States of America was denied right of Due Process in Federal District Court by Judge William F. Downes with perjury of Oath of Office and Constructive Treason against the Constitution of the United States of America in and for. When a judge fails by joining with the Article 3 Common Law Jurisdictional Court, under American Flag (title 4 United States Code 1), then by the jurisdiction of the authority under the Federal Rule of Civil Procedure rule 16(f) sanction for non joinder, with Will of Intent and Perjury of Oath.

Judge William F. downes under Will of Intent committed under Title 18 United States Code 3:

1) Constructive Treason

2) Surrendering his Oath and Affirmation to a foreign jurisdiction

3) Contempt for the Constitution of the United States of America

4) Perjury of Oath, because Judge William F. Downes swore to support the Constitution of the United States of

America and failed to do so in the above title case in a Common Law Court.

5) Violated the Rules and Regulations of Civil Procedure and the Uniform Commercial Code on How Contracts Should be Constructed.

6) Initiated false swearing

7) Judge William F. Downes was in a Title 4 United States Code 1 Flag in a Constitutional and Common Law Court, therefore Judge William F. Downes cannot rule over two jurisdictions since he did not rule under Common Law Court and the Constitution of United States of America.

All the above is under Title 18 United States Code 3.

Citizen in Party/Appellant further demands that the Appellee's attorneys take notice that their Brief of January 14, 1998 is illegal, extortion, conspiracy and corruption of the reckless collection of the $7623.40 for the year 1991. Therefore since Citizen in Party/Appellant did not violate any legal known duty nor was Citizen in Party/Appellant ever liable for any alleged income tax. Therefore let it be known that Citizen in Party/Appellant hereby charge the Appellee and their attorneys, Pamela C. Berry and Teresa E. McLaughlin in violation of:

1) Title 42 U.S.C. 1986 For the Knowledge of the Law

2) Neglectful of Knowledge of Law under Federal Rule of Civil Procedure 10 a

3) Title 18 U.S.C. 1 1342 Mail Fraud in the extortion of money

This is the Appellee and their attorneys corrupt Will of Intent, fraud and conspiracy to deny Citizen in Party/Appellant Constitutional Rights and Due Process of Law and to illegally extort money.

Citizen in Party/Appellant did not violate any legal known duty, or existing law that pertains to the illegally alleged charges. Therefore Citizen in Party/Appellant respectfully request this Honorable Appeal Court to deny and dismiss the Appellee's Brief of January 14, 1998, for illegal fabrication of lies, fraud, conspiracy, extortion and theft, perpetrated in a

Gestapo Fashion.

Respectfully Submitted,

/s/Edward Lesoon

Citizen in Party/Appellant
P.O. Box 3427
Alpine, Wyoming 83128
(307)885-0115

/s/
Lisa Hokanson
Notary Public

Notary Stamp

IN THE UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

EDWARD LESOON	)	
	)	
Citizen in Party/Appellant	)	
	)	No. 97-8105
V.	)	
	)	DIST/AG DOCKET
UNITED STATES OF AMERICA	)	97-015-D
	)	
Appellee	)	

I, Edward Lesoon, Citizen in Party/Appellant, a natural person with Constitutional Rights, and a natural person in litigation, in natural person form and a human being. In this capacity it is my responsibility in handling this case, No. 97-8105, under Title 4 United States Code 1 Flag. The facts set forth in the accompanying motion to dismiss Appellee's illegal Brief of January 14, 1998, and information are true to the best of my knowledge.

/s/Edward Lesoon

Edward Lesoon
Citizen in Party/Appellant
P.O. Box 3427
Alpine, Wyoming 83128
(307)886-0115
/s/
Lisa Hokanson
Notary Public
Notary Stamp

CERTIFICATE OF MAILING

I, the undersigned, hereby certify that I mailed a copy of Notice to the following on this 2nd day of February, 1998, by certified U.S. Mail at Afton, Wyoming 83110.

To:

Pamela C. Berry
Attorney/Dept. Of Justice
Appellate Section
P.O. Box 502
Washington, D.C. 20044

Teresa E. McLaughlin
Appellate Section
Attorney/Dept. Of Justice
P.O. Box 502
Washington, D.C. 20044

United States Court of Appeals
For the Tenth Circuit
Office of the Clerk
Byron White United States Courthouse
1823 Stout Street
Denver, Colorado 80247

United States Attorney
David D. Freudenthal
Esquire
For the District of Wyoming
2120 Capital Ave. Room 4002
P.O. Box 668
Cheyenne, Wyoming 82001

/s/

Lisa Hokanson
Notary Public

Notary Stamp

Appellant/Citizen in Party,

/s/Edward Lesoon
Appellant/Citizen in Party
Edward Lesoon
P.O. Box 3427
Alpine, Wyoming 83128
(307)886-0115

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT
OFFICE OF THE CLERK
BYRON WHITE UNITED STATES COURT HOUSE
1823 STOUT STREET
DENVER, COLORADO 80257

EDWARD LESOON)
)
Citizen in Party/Appellant)
) DIST/AG DOCKET
V.) 97-015-D
)
UNITED STATES OF) REF: 97-8105
AMERICA)
)
Appellee)

STATEMENT OF REASONS FOR ORAL ARGUMENT

Comes now the Citizen in Party/Appellant, Edward Lesoon to request this Honorable Court of Appeals to review and consider all the enclosed Facts.

Under U.C.C. 3-501: Under Title 42 U.S.C. 1986 for knowledge of the law for Federal Rules of Civil Procedure, Rule 60(b) and Federal Rules of Civil Procedure, Rule 38(a), the case title above is under the Title 4 United States Code. 1 American Flag, referenced under Presidential Executive Order 10834, and under Article 6 Section (3): Oath of Fiduciary Officers of the Court, and under Article (4) Section (3): No "State" (Natural Party) shall be created from any state (land) and United States Code. A. 11: "Foreign State" (Law of the Flag) shall have jurisdiction over a Sovereign Citizen in Party, and Article (1) Section (9): No Titles of Nobility under any foreign flag jurisdiction and in breach of the treaty of Title 28 United States Code. 1605 "Foreign Sovereign Immunity Act" of October 21, 1976 and in breach of the Constitution of the United States of America, will be allowed in the jurisdiction of this case.

Breach of the contract will cause sanction under Federal Rules of Civil Procedure rule 16(F). When the Constitution of the United States is surrendered for a foreign states/power, will cause the breach of contract, of Oath or Affirmation, for the Constitution of the United States of America, then charges for Perjury of Oath Title 18 United States Code. 1621, Constructive Treason, and contempt for the Constitution of the United States of America, and false swearing will be brought against the officers of the Court responsible.

Appellant/Citizen in Party does invoke this Court Jurisdiction pursuant to the 1st Amendment of the United States Constitution and to the 4th, 5th, 6th, 7th 8th, 9th, 13th, Amendments, and 14th Amendment Section I. Also Article III, Sections 1 and 2 of the United States Constitution.

The Appellant/Citizen in Party has no liability for any alleged income tax for years 1991. "As a matter of law, I request this Honorable Appeal Court to cite to Citizen in Party/Appellant the statute that makes Citizen in Party/Appellant liable to pay income tax based on a return, and cite to Citizen in Party/Appellant its "Legislative Implementing Regulations". Citizen in Party/Appellant request this Honorable Appeal Court to grant Citizen in Party/Appellant right to an oral argument in response to the Courts letter dated February 5, 1998.

Comes now Citizen in Party/Appellant, Edward Lesoon to file a motion of Statement of Reasons for Oral Argument.

Citizen in Party/Appellant Edward Lesoon requests and insists this Honorable Court of Appeals to conduct an Oral Argument between parties as requested by Citizen in Party/Appellant in original Brief submitted on November 10, 1997.

Oral Argument is required, requested and insisted upon for the following reasons and facts:

Citizen in Party/Appellant Edward Lesoon demands that the Appellee provide in writing and under penalty of perjury at time of Oral Argument Hearing:

1) As a matter of Law, cite to Citizen in Party/Appellant the statute that make Citizen in Party/Appellant liable to pay income tax based on a return and cite to Citizen in Party/Appellant its Legislative Implement Regulation.

2) Cite to Citizen in Party/Appellant the violated legal known duty and its statute. Pursuant to the Supreme Court of the United States of America in Cheek V. U.S. 111 S. Ct. 604, U.S. V. Murdock 290 US 389, U.S. V. Pomponio 249 US 10 and U.S. V. Bishop 412 US 346. The Supreme Court conclusively established that the standard for the statutory willfulness requirement is the voluntary and intentional violation of a known legal duty.

3) Provide Citizen in Party/Appellant copy of Assessment of alleged taxes as provided by Internal Revenue Code Section 6201(a)(1) which states: Taxes shown on return. The Secretary shall assess all taxes determined by the taxpayer or by the Secretary as to which return or lists are made under this title.

4) Provide Citizen in Party/Appellant copy of liability recording as provided by Internal Revenue Code Section 6203, which states: 6303. Method of Assessment. The Assessment shall be made by recording the liability of the taxpayer in the office of the Secretary in accordance with rules or regulations prescribed by the Secretary. Upon request of the taxpayer, the Secretary shall furnish the taxpayer a copy of the record of assessment.

5) Provide Citizen in Party/Appellant copy of Notice and Demand 17A as provided in Internal Revenue Code Section 6303(a). The Secretary shall, after the making of an assessment of a tax pursuant to Section 6203, give notice 17A to the liable person demanding payment thereof, and pursuant to Treasury Decision 1995.

6) Provide Citizen in Party/Appellant a copy of (Levy 668-B) and a copy of (Notice of Seizure 2433) as provided pursuant to Internal Revenue Code Section 6335(a) which states:

The date on which a levy on property or rights of property is made shall be the date on which the notice of seizure is made.

7) Provide Citizen in Party/Appellant a copy of Delegation Order Authority to Issue Notice of Deficiency - pursuant to Internal Revenue Code Section 6212 (26) CFR - 301 - 7701 - 9, Treasury Department Order 150 - 37, 26 CFR 301.6861 - 1 and Internal Revenue Code Section 7401.

8) Provide Citizen in Party/Appellant a copy of Appellees' contested, disregarded, challenged and disputed Supreme Court Power, prescribing the general rules, form of process, writs, pleadings, and motion and procedure and such rules shall not abridge, or modify any right and shall preserve the right to trial by jury as Common Law and pursuant to the Seventh Amendment of The Constitution of the United States of America.

9) Provide Citizen in Party/Appellant a copy of Appellees' dispute, challenge, and disregard to the Supreme Court Decisions in:

Flora V. U.S. 362 U.S. 145, 176
Bothke V. Fluor Engineers 713.F2d 1405
Laing V. U.S. 96 S. Ct. 473
Cheek V. U.S. 111 S. Ct 604
Helvering V. Mitchell 303 is 391, 82L Ed 917,921,58.S.Ct

The Supreme Court Stated in the above cases:

"The income tax system is a self reporting and self-assessing one. It is based upon voluntary self-assessment and payment, not upon distraint."

Provide Citizen in Party/Appellant a copy of Appellee's and their corrupt attorneys dispute, challenge and disregard to the following court decisions:

10) U.S. V. Long CR 19391 - Court Decision:

"That the Internal Revenue Service cannot tax a mans right to work."

Bothke V. Terry 1713 F2d 1405 - "Our tax system is voluntary"

Treasury Regulation of Procedural Rules (1954) 601.103 (a) "The tax system is based on voluntary compliance."

26 Code of Federal Regulation 601.602(a) "Our tax system is based on voluntary compliance."

Therefore based upon Judge William f. Downes illegal, corrupt, bias, and conspiracy decision of September4, 1997, and the Appellees' and their corrupt attorneys illegal allegations and perpetration of fraud, extortion, conspiracy and corruption, Citizen in Party/Appellant requests and insists on an Oral Argument and Day in Court to Right of Due Process, under the 7th Amendment of the Constitution of the United States of America, and the right of a citizen to trial by jury of his peers.

Submitted,

/s/Edward Lesoon
Citizen in Party/Appellant
P.O. Box 3427
Alpine, Wyoming 83128
(307)886-0115

February 9, 1998
/s/
Lisa Hokanson
Notary Public

Notary Stamp

IN THE UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

EDWARD LESOON)
)
Citizen in Party/Appellant)
) No. 97-8105
V.)
) DIST/AG DOCKET
UNITED STATES) 97-015-D
OF AMERICA)
)
Appellee)

DECLARATION

I, Edward Lesoon, Citizen in Party/Appellant, a natural person with Constitutional Rights, and a natural person in litigation, in natural person form and a human being. In this capacity it is my responsibility in handling this case, No. 97-8105, under Title 4 United States Code 1 Flag. The facts set forth in the accompanying motion to request and insist on an oral argument as per the Tenth Circuit Court of Appeals letter of February 5, 1998, which is now filed in a timely manner, and the information is true to the best of my knowledge.

/s/Edward Lesoon
Citizen in Party/Appellant
P.O. Box 3427
Alpine, Wyoming 83128
(307)886-0115
/s/
Lisa Hokanson
Notary Public

Notary Stamp

CERTIFICATE OF MAILING

I, the undersigned, hereby certify that I mailed a copy of Notice to the following on this 9th day of February, 1998 by certified U.S. Mail at Montpelier, Idaho 83254.

To:

United States Court of Appeals
For the Tenth Circuit
Office of the Clerk
Byron White United States Courthouse
1823 Stout Street
Denver, Colorado 80257

Pamela C. Berry
Attorney/Dept. Of Justice
Appellate Section
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Mr. Charles Bricken
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O. Christopher Meyers
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Mr. Stuart L. Brown
Chief Counsel
internal Revenue Service
Branch 4, Tax Litigation Division
1111 Constitution Avenue, N.W.
Washington, DC 20224

Appellant/Citizen in Party,

/s/Edward Lesoon
Appellant/Citizen in Party
Edward Lesoon
P.O. Box 3427
Alpine, Wyoming 83128
(307)886-0115

/s/

Lisa Hokanson
Notary Public

Notary Stamp

Edward Lesoon
P.O. Box 3427
Alpine, Wyoming 83128

May 28, 1997

Ed Lesson - I.M.F.
Original Copy

Certified Mail# P-289-744-501

RE: IMFs for alleged Tax Years 6512 thru 9112, also 9212, 9312.
Official IRS Non-Master File Transcripts

District Director
Department of the Treasury
Internal Revenue Service
308 W. 21st Street
Cheyenne, Wyoming 82001

Dear Director:

0). The primary purpose of this letter is to expose the Entrapment and Computer Fraud herein and the presumptions made by your Agency as to the status and clarification of all NMF Tax Class 6 Excise Income Tax and Penalty Codes posted to my IMFs and the presumed Official IRS Non-Master File Transcripts. This letter will notify you that an investigation is now underway using the FOIA Request and Title 18 USC 1512 thru 1515, specifically 1512 Section (d)(1)(2) and that this allows the Undersigned Party to act immediately with no proceeding pending or necessary at the time the crime is committed.

Letter of Decoding 4-24-97

1). This letter may be prima facie evidence in a Civil or Criminal Court of Law for the purpose of investigation into discoveries recently made in the Undersigned party's IMFs. This letter is reporting serious crimes found in the current Blocking Series Codes of the said party's IMFs and the presumed Official IRS Non-Master File Transcripts.

2). All of the Undersigned party's IMFs clearly exhibit

MFR-01, in area #3 on the first page of said IMFs which means, "Return not required to be mailed or FILED" (Exhibit G-3) and "1040 not REQUIRED", respectively (Exhibit G-4). Diabolically, the IRS unlawfully Filed a NMF Tax Class 6 Excise Income Tax SFR and assessed my alleged liability of $0.00, for this I thank you!, for the year 9112 for Edward Lesoon in a vain attempt to make him liable, but obviously failed, for a tax absolutely foreign to his Common Right Occupation, so foreign, as to presume him to be a Backup Withholding Agent. This leaves the IRS with the option of placing a T-, N,- or U- in the lower Freeze Area of page #1 of my IMF in a desperate attempt to save this unlawful system. Said party objects to, denies and rebuts this attempted Computer Fraud.

3). In the matter of the designation of TC 148 Hold is P appearing on the top right side of the first page of my IMFs. Undersigned party pledges to pay all taxes that are honestly, correctly, lawfully and constitutionally assessed against him, except by presumption. Said party objects to, denies and rebuts any such notion that he is a Tax Protestor, presumed or otherwise, until being notified of a Judicial Decision concerning the presumption of "TAX PROTESTER", until such time, your presumption will be considered frivolous and without merit. The same test may be applied to the presumption of "TAXPAYER", especially thirty (30) days after this Letter and Affidavit become a party of my Permanent Administrative File.

4). The Undersigned Party categorically denies and rebuts the presumed status of Backup Withholding Agent along with the Blocking Series and Penalty Codes prevalent in the IMFs DLN Numbers and presumed Official IRS Non-Master File Transcripts that are (but not limited to) NMF Tax Class 6 Excise Income Tax and Penalties that are allegedly due and owing this includes the NMF Tax Class 6 Excise Income Activity Codes on the Forms 5546 and AMDISA, yet to be issued.

5). Edward Lesoon is REFUSING FOR ENTRAPMENT AND COMPUTER FRAUD and PRESUMED STATUS OF BACKUP WITHHOLDING AGENT, his IMFs and the presumed

Official IRS Non-Master file Transcripts including the NMF Tax Class 6 Excise Income Tax and Penalty Codes pursuant to F.R.C.P. 9(b), supra.

6). IGNORANCE OF LAW EXCUSES NOT, 1 Coke 177 Broome Maxim 253, Reynolds v. U.S. 145 at 167. Diabolically, the IRS used the Blocking Series to place (but not limited to) NMF Tax Class 6 Excise Income Tax and Penalty Codes and the presumed Backup Withholding Agent status, unlawfully into the Undersigned party's Blocking Series of his IMFs and the presumed Official IRS Non-Master File Transcripts.

7). This alleged crime is spelled out completely in USC 18 1515 (c), "With intent to mislead, knowingly, submitting or inviting reliance on a writing or recording that is false, forged, altered or otherwise lacking in authenticity". Your chicanery has been done willfully and intentionally. All of these unlawful acts by the IRS has put the Undersigned party in deep jeopardy and has induced said person to try to extricate himself from a phantom dilemma that in reality does not exist. This type of crime fits Title 18, Section 187, perfectly.

8). The Undersigned party rebuts all presumptions of the (but not limited to) NMGF Tax Class 6 Excise Income Tax and Penalty Codes along with the presumed Backup Withholding Agent status and is resolute on nullifying these unlawful codes from all the said party's files. The said party demands that all NMF Tax Class 6 Excise Blocking Series and Penalty Codes (but not limited to) be nullified in the said party's IMFs and the presumed Official IRS Non-Master File Transcripts, immediately.

9). You now have Notice of Irregularities that makes any Lien and/or Levy unlawful until evidence that the Undersigned party's status is that of a Backup Withholding Agent - Bothke v. Fluor Engineers and Constructors, Inc. (1983). It is the intention of said party to obey all laws that are lawful and constitutional and that have application to the said party's activities.

10). The actions of the IRS perfectly fits Section 287 of Title 18 and the definition of the word "Entrap" respectively, "Whoever makes or presents to any person or officer in Civil, Military or Agency thereof, any claim upon or against the United States or any Department or Agency thereof, knowing such claim to be false, fictitious and/or fraudulent shall be imprisoned not more that 5 years and shall be subject to a fine in the amount provided in this Title", "Entrap" meaning to lure into a compromising statement or act" (Merriam Webster Collegiate Dictionary, Tenth-Edition). The preceding paragraph containing Section 187 of false, fictitious and/or fraudulent seems to fit the IRS unlawful actions committed against the Undersigned party in said IMFs and the definition of "Entrap" is totally relevant. It appears that the act of Entrapment has been carried out. Unreported crimes are crimes within themselves.

11). The fact that so many (but not limited to) NMF Tax Class 6 Excise Income Tax and Penalty Codes maliciously appear in the Undersigned party's IMFs and the presumed Official IRS Non-Master File Transcripts, supra. Yet in the IMFs, for the relevant years an absolute Non-taxable Code of 200 to 299 Blocking Series is prevalent in the relevant years (Exhibit J-3), this is a fact, in spite of being surrounded with a legion of libelous Tax Class 6 Excise Income Tax and Penalty Codes, my presumption is that all IMF relevant years feature the same Non-taxable 200 Blocking Series, posting of the 200 Non-taxable Blocking Series obviously being required by law when one chooses not to File a Return, can the law now require an opposite action against Edward Lesoon by placing NMF Tax Class 6 Excise Income Tax and Penalty Codes into his IMFs and the presumed Official IRS Non-Master File Transcripts? The information used here is textbook perfect, having come from the IR Manuals #3 and 6209 in the Reading Room in Washington, D.C..

12). All presumptions have now been properly rebutted. Undersigned party demands that you produce a CORPUS DELICTI AND/OR SIGNED FOUNDATIONAL DOCUMENT by pen and ink for each and every (but not limited to) NMF Tax Class 6 Excise Income Tax and Penalty Code number and definitions including the evidence of status of the Backup Withholding Agent, as evidence of the connection with the 000 EPMF, 100 Withholding

& FICA and 775 Taxable PAC, posted to the Undersigned party's IMFs and the presumed Official IRS Non-Master File Transcripts. Please advise as to how the above NMF Tax Class 6 Excise Income Tax Codes can be generated, except by the Undersigned status of Backup Withholding Agent.

ATTEMPTED COMPUTER FRAUD

13). Pursuant to IRS own records, i.e. - IMF Specific Transcript for 9112 shows fraud in the computer entries. According to the IMF Specific Transcripts furnished under the Freedom of Information Act (FOIA) by the IRS, for the year 9112, the Document Locator Number for "LIEN" IS 2924754300099-6. Using the De-Coder from IR Manual 6209 provided by the IRS via FOIA Request, Exhibit J, shows the True Tax Class is 2 - which is Non-taxable according to the IR Manual 3(10)(72)7.2 (Exhibit J-3) is within the Blocking Series of 000, which according to IR Manual 3(10)(72)7.2 (Exhibit J-3). Additionally, the same DLN Number indicates a Blocking Series of 000, which according to IR Manual 3(10)(72)7.2 (Exhibit J-3) is within the Blocking Series of 000 to 199 and requires the filing of Form CT-1 (Exhibit J-3 & 0-2). Further, the IR Manual at 38 (43)4.3 (Exhibit J-1), at paragraph (6)(a), gives specific instructions to service employees to - "Always use Tax Class 6, the first digit in the Blocking Series will identify the True Tax Class". Consequently, the IRS is attempting to commit Computer Fraud, since in the DLN Number for LIEN for alleged tax year 9112 has a third digit number of, i.e. - True Tax Class of 2 - which is Non-taxable according to Exhibit J-3 while the Blocking Series first number, i.e. - "0" indicates a Taxable Class of "0" Employees Plans Master File" (EPMF) (Exhibit 0). Undersigned party has not participated in any Backup Withholding for the year 9112 for any EPMF. This inconsistency has led to a fraudulent computer entry which classified the said party as a "Taxpayer" allegedly owning Backup Withholding NMF Tax Class 5 Excise Income Tax for EPMF "Railroad Retirement" (defined Contribution Plan), which is asinine since Edward Lesoon has absolutely no credentials for Backup Withholding Agent from any EPMF. The said party presumes that Forms 5546 and AMDISA feature the same Non-taxable number of XREF (Cross reference to IMF) DLN Number of 8327702920000-3 that is featured on the 9112 IMF> Using the De-Coder from IR Manual 6209 provided by the IRS via FOIA Request (Exhibit J), the True Tax Class is 2 - which is Non-taxable according to IR Manual 3(10)(72)7.2 (Exhibit J-3) and is within the Blocking Series of 200 to 299 - **NON-TAXABLE 1040** (Exhibit J-3). Therefore, the information used to Lien, Levy and/or Assess Undersigned party is presumptuous and must be abated immediately to avoid Prosecution under Title 18 Section 1512 thru 1515 for Entrapment and/or Computer Fraud. Further, the IR Manual at 38(43)4.3 (Exhibit J-1) at paragraph (6)(a), gives specific instructions to service employees to"Always use Tax Class 6, the first digit in the Blocking Series will identify the true Tax Class". Once again, the IRS is attempting to commit Computer Fraud since the presumed Forms 5546 and AMDISA and IMF DLN Number is 8327702920000-3 - the Undersigned party's Tax Status for the year 9112 has a third digit, i.e. - True Tax Class of 2 - which is NON-TAXABLE according to Exhibit J-3 while the Blocking Series first number, i.e. - "2" (Exhibit J-3) indicates a NON-TAXABLE ENTITY. The above inconsistency has lead to a fraudulent computer entry which classified the said party as a "Taxpayer" owing NMF Tax Class 6 Excise Income Taxes from presumed Backup Withholding for a "EPMF", a form of Railroad Retirement, which is totally false.

14). My presumed OFFICIAL INTERNAL REVENUE SERVICE NON-MASTER FILE TRANSCRIPT for the 9112 under TRANS DATE DESCRIPTION CC DOCUMENT LOCATOR, I find posted in the third digit a #6 (six) denoting a NMF Tax Class 6 Excise Income Tax and/or Penalty Code. Please advise as to how these Codes can be generated by anything except the status of a Backup Withholding Agent. My rebuttal of such Codes are now in effect, creating a nullity until you produce such Foundational Documents and/or Corpus Delicti to the contrary.

CONCLUSIONS

15). It was error for the respondent to ignore the Undersigned party's many correspondence, pursuant to the policy published in 5 USC Section 552a (Administrative Procedures Act), Publications 594 and Internal Revenue Manual Handbook Policy, P-6-12, requires the Commissioner to answer all inquires from the public. By ignoring such correspondence and other issues, an erroneous assessment has been proposed.

16). All relevant years IMFs contain the same attempted - 1992-1993 Computer Fraud as IMF 9112 and are to be treated accordingly.

17). It is the duty of each and every IRS Office Holder, Agency and Employee to forward this document onto the "person" and/or "persons" who may directly or indirectly affect the purpose, and intent relevant to the rights of the Undersigned party as provided under any or all of the US 50 Titles, especially Titles 5,7,12,15,19,22,26,27,31,42,44 and Title 28 USCS and their respective CFR Regulations. Your failure to respond on a point by point basis within thirty (30) days and failure to nullify my IRS/IMF/TDA, RACS-006. 23-C, Records and Files and nullify Liens and/or Levies within the prescribed time by law, will be an Admission of Guilt for Entrapment and Computer Fraud under Title 18 and will provide the said party with a remedy in a Court of Competent Jurisdiction and/or willfully refuse to respond within the designate time will result in default and therefore enable the said party to pursue whatever remedy he deems most appropriate.

18). Pending this investigation, a Stay of Execution of Collection and/or Prosecution is in effect.

19). This letter is to be placed into the permanent Administrative File of Edward Lesoon.

Sincerely,

/s/Edward Lesoon

enclosures: IMFs for 6512 thru 9112 and Definitions
Exhibits: E, G-2, G-3, G-4, I, J, J-1, J-2, J-4, 0, 0-1, 0-2, 0-3, 0-4, 0-5, 0-6, 0-7, 0-8, 0-9, 0-10, & 0-11
28 USC 1512 thru 1515
Affidavit and Curriculum Vitae

cc: U.S. House of Representative

IRS Legislative Liaison Office

/s/
Lisa Hokanson
Notary Public

Notary Stamp

UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

PRO SE DOCKETING STATEMENT

Citizen in Party

INSTRUCTIONS: Appellant must complete the entire docketing statement form and attach copies of the following documents: (1) the notice of appeal; (2) the order or judgment being appealed; and (3) any written findings, conclusions or order of the trial court relating to the order of judgment being appealed. The completed docketing statement, together with the attachments, must be filed with the clerk of the court of appeals within 10 days after filing the notice of appeal. A copy of the completed docketing statement, with attachments, must be served on all opposing parties or their counsel. Proof of service must be provided. You must complete the certificate of service which is part of this form.

1. Your name, address, including registration number if applicable: Edward Lesoon P.O. Box 3427 Alpine, Wyoming 83128 Lesoon V. U.S.A. RE. 97CV15

2. Title and number of district court case: Lesoon V. U.S.A. RE: 97CV15

3. Name of the district court: United States District Court For the District of Wyoming

4. The dates on which the district court order and your notice of appeal were filed: Notice of Appeal Filed on 10-8-97 - Court Order 9-22-1997

5. Type of action:

____________ habeas corpus
____________ § 2255 motion
____________ motion to reduce sentence

___civil_____civil action for damages
___________ other [specify] ________________________

6. State Briefly the relief you requested in the district court and the reasons why you are entitled to such relief: The relief I request is: (1) to restore the seize deprived, and extorted under Color of Law, the $7623.40, plus interest. (2) Request the Sum of $1,000,000.00 (one Million dollars) in Punitive damages, as signed into Law by President Clinton on 7-30-1996. (3) The Defendants to forever cease and desist any and all liens, levies, deficiency and all other means of illegally extorting Plaintiff property. (4) I am entitled to the above relief, because the violation of my Constitutional rights in the 1st, 4th, 5th, 9th, 10th, 11th, Violation of Law and Recklessly, Illegally and intentionally violates the I.R.C. and its procedures.

7. State briefly the reasons why you feel the decision of the district court should be reversed: (1) The District Courts decision is in fact Biased in for the Defendants. (2) In violation of Constitutional Due Process. (3) In violation of the United States Constitutional Amendments: 1st, 4th, 5th, 6th, 7th, 9th, 10th, 11th, 13th, 14th and Article - 3- Section 1 of the United States Constitution. (4) The Court Decision is in Contempt of the United States Constitution. (5) Breach of Contract of Oath and Affirmation. (6) and Pursuant to I.R.C. Section 7433 (a)(b)

8. Did you have a hearing in the district court? Yes on 9-4-1997

/s/Edward Lesoon - Citizen in Party	10-20, 1997
Signature	Date

CERTIFICATE OF SERVICE

I, Edward Lesoon - Citizen In Party hereby certify that
[appellant/petitioner]
on 10-21, 1997 I sent a copy of the foregoing **Pro Se Docketing**
[date]
Statement, to:

Susan A. Berson - Trial Attorney, at P.O. Box 683 Washington D.C.
[appeliee/respondent or attorney therefor] 20044

By U.S. Mail, the last known address, by way of United States mail or courier.

Edward Lesoon - Citizen in Party
Signature

October 21, 1997
Date Signed

Edward Lesoon - Citizen in Party
P.O. Box 3427
Alpine, Wyoming 83128

[Printed name and address of
person completing service]

TAXPAYERS CAN SUE IRS WITH NEW BILL

Washington (AP) - President Clinton signing a politically popular bill Tuesday, promised taxpayer greater muscle in disputes with the IRS. "You have rights," he declared. "And we will shield them."

The measure, known as the Taxpayer Bill of Rights, allows taxpayers to sue the Internal Revenue Service for up to $1 million for reckless collections - 10 times the current $100,000 cap on such lawsuits.

Taxpayers also will have the right to sue anyone filing false information about matters such as wages and interest income. In some cases, contractors have filed incorrect forms for workers, resulting in the employees being assessed unjustified back taxes. In disputed cases, the IRS would have to prove the information it received was correct.

The new law expanded the powers of the IRS independent taxpayers advocate, an office that requires the agency to issue refund checks and meed deadlines in performing tasks for taxpayers.

Tuesday - July 30, 1996

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

EDWARD LESOON	)	
	)	
Plaintiff/Citizen in Party	)	CIVIL CASE NO.
	)	97-CV-015-D
V.	)	
	)	
UNITED STATES OF AMERICA	)	DATE: October 6, 1997
	)	
	)	
Defendant	)	

NOTICE OF APPEAL OF JUDGE ORDER

TO THE CLERK OF THE ABOVE CAPTIONED DISTRICT COURT: NOTICE IS HEREBY GIVEN

that Edward Lesoon/Citizen in Party appeals Judge Downes Order
(Appellant)
Granting Defendant's Motion To Dismiss entered in the above-entitled matter and filed on September 22nd, 1997 in the United States District Court For The District of Wyoming. A copy of said Order is attached to this notice as Exhibit A.

Appellant further hereby certifies that all relevant portions of the transcript of evidence deemed necessary for this appeal have been ordered and proper arrangements for payment of the transcript have been made.

DATED this 6th day of October, 1997

Respectfully submitted,

/s/Edward Lesoon
Citizen in Party
P.O. Box 3427
Alpine, Wyoming 83128
307-886-0115

CERTIFICATE OF MAILING

I, the undersigned, hereby certify that I mailed a copy of Notice to the following on this 6th day of October, 1997 by certified U.S. Mail at Alpine Wyoming.

To:

Honorable Judge William Downes
United States District Court for the
District of Wyoming
111 S. Wolcott, Room 121
Casper, Wyoming 82601

Susan A. Berson
Trial Attorney
P.O. Box 683
Ben Franklin Station
Washington, D.C. 20044

Plaintiff

/s/Edward Lesoon
Citizen in Party

Edward Lesoon
P.O. Box 3427
Alpine, Wyoming 83128
307-886-0115

/s/
Katherine Wright
Notary Public

Notary Stamp

UNITED STATES DISTRICT COURT
DISTRICT OF WYOMING

2120 Capitol Ave
P.O. Box 727
Cheyenne, WY 82003
(307)772-2145

Betty A. Griess
Clerk

111 South Wolcott
P.O. Box 1519
Casper, WY 82602
(307)261-5440

October 8, 1997

U.S. COURT OF APPEALS
OFFICE OF THE CLERK
BYRON WHITE US COURTHOUSE
1823 STOUT STREET
DENVER, CO 80257

RE: LESOON VS: U.S.A.
District Court Case Number 97CV 15
Notice of Appeal filed on 10/8/97

$100.00 fee was paid
$5.00 fee was paid

Receipt # 200 298138

Dear Mr. Fisher;

Enclosed are the following documents in connection with the Notice of Appeal, filed by the Plaintiff in the above-referenced case, which shall constitute the preliminary record on appeal:

- Certified copy of the district court docket entries.
- Copy of the notice of appeal.
- Copy of the district court's final judgment or

order(S) from which the appeal is taken, as follows:

ORDER filed 9/22/97

Copy of all pre judgment motions and post-judment motions to Reconsider or which questions the judgments, and any other order disposing thereof, as follows:

COMPLAINT filed 1/30/97
MOTION by deft to dismiss filed 2/27/97

Please advise this office of any further requirements in the above-captioned appeal.

Very truly yours,

BETTY A. GRIESS, CLERK

by/
Helen Ellis, deputy clerk

District Code - 1089
Office Code -01
Judge Code -8905
Jurisdiction Code -02
Enclosures:

cc: file
Court reporter(s): Jamie Hendrich
PRO SE
SUSAN BERSON/CAROL STATKUS

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

Entry of Appearance and Certificate of Interested Parties

EDWARD LESOON, Plaintiff/Appellant vs. UNITED STATES OF AMERICA Defendant/Appellee	Case No. 97-8105

INSTRUCTIONS: Counsel for a party must forthwith execute and file this form, together with proof of service on all other parties. If the certificate of interested parties on the reverse of this form is completed, an original and three copies must be filed. Multiple counsel appearing for a party or parties and who share the same mailing address may enter their appearances on the same form by affixing their individual signatures.

In accordance with 10th Circ. R. 46.1., the undersigned attorney(s) hereby appear as counsel for

The United States of America
Party or Parties

Appellee/Respondent, in the subject case(s).
Appellant/Petitioner or Appellee/Respondent

Further, in accordance with 10th Cir. R. 46.1.3., the under signed certify(ies) as follows: (Check one.)

On the reverse of this form is a completed certificate of interested parties and/or attorneys not otherwise disclosed, who are now or have been interested in this litigation or any related proceeding. (File original and three copies.)

X There are no such parties, or any such parties have hereto fore been disclosed to the court. (File original only.)

DAVID D. FREUDENTHAL	CAROL A. STATKUS
United States Attorney	Assistant United States Attorney
Name of Counsel	Name of Counsel
/s/	/s/
Signature of Counsel	Signature of Counsel
P.O. Box 668	U.S. Attorney's Office
Cheyenne, WY 82003	307-772-2124
Mailing Address and Ph. #	Mailing Address and Ph. #

I hereby certify that a copy of this Entry of Appearance and Certificate of Interested Parties was mailed on

(please insert date) October 23, 1997

to: Edward Lesoon	/s/
(see Fed. R. App. P.25(b))	(Signature of Counsel)

A-5 Entry of Appearance Form 8/97

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

Case Name: EDWARD LESOON Citizen in Party vs. UNITED STATES OF AMERICA Defendant	NO. 97-CV-015-D Entry of Appearance "Citizen in Party"

INSTRUCTIONS: A Party desiring to appear without Counsel shall notify the Clerk by completing and signing this form. The Federal Rules of Appellate Procedure and Tenth Circuit Rules require that filing Party and that copies by served on opposing parties or their Counsel, if represented by Counsel. The original of every paper submitted for filing must contain proof of service in a form similar to that on the reverse of this form. Any paper that does not contain the required proof of service may be disregarded by the Court or returned.

I, hereby notify the clerk that I am appearing as
Citizen in Party in this
(Appellant, Petitioner, Appellee, or Respondent)
case. All notices regarding the case should be sent to me at the address below. If my mailing address changes, I will promptly notify the clerk in writing of my new address.

Further, in accordance with 10th Cir. R. 46.1.2, I certify: (check one.)

X All Parties to this litigation, including parties who are now or have been interested in this litigation, are revealed by the caption on appeal, or

Parties to this litigation not revealed by the caption on appeal are as follows: (Attach additional pages if necessary.)

/s/Edward Lesoon

Edward Lesoon - Citizen in Party
P.O. Box 3427
Alpine, Wyoming 83128
307-886-0115

PROOF OF SERVICE

I certify that on 10-28-1997 I mailed a copy of this Entry of Appearance to Susan A. Berson, at P.O. Box 683, Washington, D.C. 20044, at the last known address.

Dated: 10-28-97

/s/Edward Lesoon/Citizen in Party

Also to:
Carol A. Statkus
Assistant U.S. Attorney
P.O. Box 668
Cheyenne, Wyoming 82003-0668

Brief

Edward Lesoon/Citizen in Party
U.S. Court of Appeals
Ref: 10th Cir. - No. 97-8105 - Lesoon V. U.S.A.
Dist/Ag docket 97-015-D

Mr. Ed Lesoon/Copy
Lesoon V. U.S.A.

BRIEF
Citizen in Party

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BRIEF

Edward Lesoon)
)
Citizen in Party/Appellant)
) DIST/AG DOCKET
V.) 97-015-D
United States of America)
)
Defendant/Appellee) REF: 97-8105

ORAL ARGUMENT

Oral Argument is desired and necessary for the following reason:

To clarify and establish the truth, the whole truth and nothing but the truth beyond a shadow of a doubt that the appellant has not violated any legal known duty based upon our voluntary self-assessment income tax system. The relief sought being punitive damages and no further intimidation, harassment and forever cease any and all liens, levies, and deficiencies since the appellant is not liable for the alleged income tax.

Submitted,

/s/Edward Lesoon

Edward Lesoon
Appellant/Citizen in Party
P.O. Box 3427
Alpine, Wyoming 83128

November 10, 1997

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT
OFFICE OF THE CLERK
BYRON WHITE UNITED STATES COURT HOUSE
1823 STOUT STREET
DENVER, COLORADO 80257
303-844-3157

EDWARD LESOON	)	
	)	
Citizen in Party/Appellant	)	CASE NO. 97-8105
	)	
V.	)	DIST/AG DOCKET
	)	97-015-D
UNITED STATES OF	)	
AMERICA	)	CITIZEN IN PARTY/
	)	APPELLANT
Defendant/Appellee	)	

OPENING BRIEF

CITIZEN IN PARTY/APPELLANT OPENING BRIEF

I

Statement of the Case and Facts under Common Law Jurisdiction

Comes now the Appellant/Citizen in Party, Edward Lesoon to request this Honorable Court to completely review and consider all the enclosed facts, statutes, regulations, rules and citation relevant legal Authorities. Further more to request the consideration for the truth, the whole truth, and nothing but the truth, the Internal Revenue Code of 1954, code of Federal Regulations, The Constitution of the United States, Federal Rules of Civil Procedure, and Constitutional Rights.

Under Uniform Commercial Code 3-501: Under Title 42 United States Code 1986 for Knowledge of the Law for Federal Rules of Civil Procedure, Rule 60(b) and Federal Rules of Civil

Procedure, Rule 38(a), the case titles above is under the Title 4 United States Code 1 American Flag, referenced under Presidential Executive Order 10834, and under Article 6 Section (3); Oath of Fiduciary Officers of the Court, and under Article (4) Section (3): No "State (Natural Party) shall be created from any state (land) and, United States Code 1.11: "No Foreign State" (Law of the Flag) shall have jurisdiction over a Sovereign Citizen in Party, and Article (1) Section (9): No titles of Nobility under any foreign flag jurisdiction and breach of the treaty of Title 28 United States Code 1605 "foreign Sovereign of this Common Law case."

Breach of the contract will cause sanction under Federal Rules of Civil Procedure rule 16(f). When the Constitution of the United States is surrendered for a foreign state/power, will cause the breach of contract, of Oath or Affirmation, for the Constitution of the United States of America, most surely then charges for Perjury of Oath Title 18 United States Code 1621, Constructive Treason, and Contempt for the Constitution of the United States of America, and false swearing will be brought against the officers of the Court responsible.

Citizen in Party/Appellant does invoke this Court Jurisdiction to be "Common Law Jurisdiction" pursuant to the 7th Amendment of the Constitution of the United States of America and to the 1st, 4th, 5th, 6th, 7th, 8th, 9th, 11th, 13th, Amendments and 14th Amendment Section 1.

Also Article III, Section 1 and Article IV, Section 2 of the Constitution of the United States of America.

Citizen in Party/Appellant further invokes this Court Jurisdiction under Section 1331 of Title 28 of the United States Code "is the general statute which the Courts have jurisdiction over" civil action arising under the Constitution of the United States of America.

Citizen in Party/Appellant request this Honorable Court of Appeals to completely void, cancel and reverse the illegal, fraud corrupt conspiracy and extortion of the District Court and Judge William F. Downes Motion to Dismiss entered on September 22nd, 1997, and grant Citizen in Party/Appellant Due Process under

Constitutional Common Law, and the rights today in court by an unbiased Judge and Jury of Appellants peers, to expose the truth, the whole truth, and nothing but the truth and facts.

Judge William F. Downes Motion to Dismiss on September 22, 1997 is in violation of Due Process of Law, to deny Citizen in Party/Appellant day in court, further more Judge William F. Downes reasons for this dismissal are lies from start to finish, perpetrated under fraud, conspiracy and corruption of law. The Citizen in Party/Appellant is confident to express that justice was not done in this case, and that Judge William F. Downes decision was totally corrupt and intentionally bias in favor of the Government. Judge William F. Downes decision of September 22, 1997 further demonstrates the disintegration of our Legal and Judicial System and further undermines the collapse of our civil Justice System, as well as the destruction of American Liberty. See Greyhound corporation V. United States 495 F2d 863 1974 Decision: "Doubt relative to statutory construction should be resolved in favor of the individual, not the government." See: Busse V. Commissioner of Internal Revenue Service 479 F2d 1143.: "Courts have no power to rewrite legislative enactments to give effect to their ideas of policy and fitness or desirability of symmetry in statutes." See Boyd V. United States 116 U.S. 616, 635 and United States V. Vadner.: "It is the duty of the Courts to be watchful for the Constitutional Rights of the citizens and against any stealth encroachments thereon." See Marbury V. Madison 5th U.S. (2 Cranch) 137, 180 (1803): "All laws, rules and practices which are repugnant to the Constitution are null and void." See Security Bank of Minnesota v. Commissioner of the Internal Revenue Service 994 F2d 432 (8th Cir. 1993): "When there is reasonable doubt about meaning of revenue statute doubt is resolved in favor the those taxed."

The Citizen in Party/Appellant further illustrates the true statements by the Honorable Judge Harold J. Roghwax, Trial Judge of New York State Supreme Court.

1) "Speedy trail statutes, based on a precise formula of days and weeks, only protects those who are most interested in

manipulating the system of Due Process." Justice delayed is Justice Denied.

2) "American Judges should be allowed a more active role in the courtroom to assure that the Due Process is swift, sure, and according to the laws of evidence."

3) "The American Courtroom is dangerously out of order."

4) "The Court of Appeals prevents the accused from being railroaded, it protects citizens against neglectful judges, lazy or inept lawyers, or the use of illegal force by the state or government."

5) "That clever defense attorneys, coupled with passive judges, can fashion "evidence" out of innuendo, we authorize our lawyers and judges to engage in truth-defeating trickery and distortion."

Citizen in Party/Appellant declares that our entire Judicial System prior to going to trial is composed of a set of probability screens. By the time a Citizen in Party/Appellant reaches the court he has been deemed "probably guilty" several times by the court in preliminary hearing. The search for truth in our courtroom fails *too much of the time.* Our adversary system rates truth too low among the values that institutions of justice are meant to serve.

The way our adversarial system presently works and functions, not only diminishes the possibility of truth, it encourages and promotes excess on the part of the lawyers vying for the upper hand, and the corrupt judges play along. The goal has become abusive victory, not truth. Our present courtrooms have become casinos with a professional routine culture of consistent rivery and misconduct so out of reason and so pervasive and so profound that it is unrecognizable as justice. The defense attorney will seek to "seed the record" with error and manipulation. Issues were raised for no other purpose than to provoke error and hide the facts and truth. It is only a short step of corruption of seeding the record with lies error, and fraud, to judge baiting. Although our Constitutional and professional ethics would seem to forbid such behavior, there is no distinction between proper and acceptable courtroom gamesmanship and misconduct, and the attorneys guild has never been publicly condemned. A judge is in season and in due measure, fair game. A victory gained by provoking and manipulating judicial blinders is a victory all the same. Citizen in Party/Appellant is requesting Appeals Court to reverse the illegal and corrupt decision made by Judge William F. Downes on September 22, 1997. Judge William F. Downes clearly and intentionally committed and perpetrated fraud against Citizen in Party/Appellant, and denied Citizen in Party/Appellant day in court, right to the court and Due Process of Law. Judge William F. Downes misrepresented himself before the court, by neglecting the Constitution of the United States of America, Judge William F. Downes knew exactly what he intended to do to Citizen in Party/Appellant before Citizen in Party/Appellant even entered the Court. Judge William F. Downes was in fact committing fraud against Citizen in Party/Appellant under Title 18 United States Code 3 Accessory before the fact.

Citizen in Party/Appellant was injured by the Respondents/Appellee and officers of the Court and most of all by Judge William F. Downes, who had knowledge of the wrong committed in violation of the Constitution of the United States of America, as well as of Citizen in Party/Appellant Constitutional Rights.

Citizen in Party/Appellant states: Under Due Process of Law under the United States Constitution Amendments #5, #7 and #14, Citizen in Party/Appellant was injured under the neglect of the Constitution of the United States of America and Due Process.

A Common Law hearing has been conducted under Article 3 of the Constitution of the United States of America, and Title 4, United States Code 1 American Flag, within the designated time and place, for presenting, Citizen in Party/Appellant was injured process of law by Judge William F. Downes. The Citizen in Party/Appellant was injured by fraud, that makes Judge William F. Downes the supreme ruler of a foreign state/power by neglecting the Constitution of the United States of America. The Constitution of the United States of America would have protected the Citizen in Party/Appellant before the Court. No disclaimer contract of the notice of will of intent, was presented to the Citizen in

Party/Appellant before entering the bar, henceforth, treason. This lack of disclaimer contract will void any contract by standards of international treaty or contract. The Act of Conspiracy by committing Constructive Treason with knowledge, (Title 42 United States Code 1986) and neglect by stopping the jurisdictional wrong, under Title 18 United States Code 242 Deprivation of Rights Under Color of Law by William F. Downes and respondent officers of the Court and Obstruction of Justice under Title 18 United States Code 1512, denying testimony into the Court record, while acting in conspiracy by Judge William F. Downes and Respondent, by neglecting Due Process of Law under the 5th, 7th, and 14th Amendments of the Constitution of the United States of America. The conspiracy by Judge William F. Downes and respondent officers of the Court present in Court under Title 18 United States Code 241, and a civil conspiracy under Title 42 United States Code 1985(1).

Furthermore Judge William F. Downes and Appellee committed Perjury of Oath of Office and Constructive Treason and Contempt of the Constitution of the United States of America a Cause of Action under Title 42 1983 Ch. 21 at notes 319-337. Citizen in Party/Appellant states: Under Due Process of Law under the 5th, 7th and 14th Amendments of the Constitution of the United States of America was denied right of Due Process in Federal District Court and by Judge William F. Downes with Perjury of Oath of Office and Constructive Treason against the Constitution of the United States of America in and for. When a judge fails by joining with the Article 3 Common Law Jurisdictional Court, under American Flag (Title 4 United States Code 1), then by the jurisdiction of the authority under the Federal Rules of Civil Procedure rule 16(f) Sanction for non joinder, with Will of Intent and Perjury of Oath.

Judge William F. Downes under Will of Intent committed under Title 18 United States Code 3:

1) Constructive Treason

2) Surrendering his Oath and Affirmation to a foreign jurisdiction.

3) Contempt for the Constitution of the United States of America.

4) Perjury of Oath, because Judge William F. Downes swore to support the Constitution of the United States of America and failed to do so in the titled case above in a Common Law Court.

5) Violated the Rules and Regulations of Federal Rules of civil Procedure and the Uniform Commercial Code on How Contracts Should be Constructed.

6) Initiated false swearing

All the above is under Title 18 United States Code 3.

The Citizen in Party/Appellant believes he is not liable for any alleged and illegal Income Tax for the year 1991, for the Internal Revenue Service to extort the funds out of Individual Retirement Account. "As a Matter of Law, Citizen in Party/Appellant requests this Honorable Appeal Court to cite to Citizen in Party/Appellant the statute that makes Citizen in Party/Appellant liable to pay Income Tax based on a return, and cite to Citizen in Party/Appellant its "Legislative Implementing Regulations." Citizen in Party/Appellant did not violate any legal known duty. Citizen in Party/Appellant further states:

The Supreme Court of the United States of America declared: Our tax system is based upon voluntary Self-Assessment and payment, not upon distraint (force).

1) Flora V. The United States of America 362 U.S. 145 4L ed 2nd 623, 80 Ct. 630.

2) Helvering V. Mitchell 303 IS 391, 399, 82 L ed 917, 921.58.S.Ct.

3) Laing V. The United States of America 96 S. Ct. 473.

4) Cheek V. The United States of America 111 S. Ct. 604.

5) Also United States 9th Court of Appeals in Bothke V. Terry, 1713 F2d 1405

6) The United States of America. V. Long CR 19391, October 15, 1993

7) Treasury Regulations of Procedural Rules (1954 Code) 601.103(a) and Code of Federal Regulations

26,601.602(a) "The Tax system is based on Voluntary Compliance."

8) The United States of America V. Long CR 19391, October 15, 1993 stated; "Wages are not taxable income, the Internal Revenue Service cannot tax a mans right to work for wages, the Income Tax is in fact an excise tax on corporate privileges."

9) Perlman V. The United States of America 490 F2d 933; "Ability to exercise voluntary discretion is violated when duress is brought on by government action."

10) Miranda V. Arizona, 384 U.S. 436, 491 S Ct. 1602; "Where rights secured by the Constitution are involved there can be no rule making or legislation which abrogate them."

II

Statement of the Basis for Jurisdiction in the Court of Appeals

1) The Supreme Court of the United States, the highest court in the land, provides that this court has jurisdiction for review.

2) "Congress, which was given authority in the Constitution to ordain and establish inferior courts, has power to fix precisely the jurisdiction of the courts." - The Constitution of the United States of America Section 8 and Article 3 Section 1.

3) Civil Action arising under Constitutional Laws; "Section 1331 of Title 28 of the United States Code is the general question statute, under which the courts have jurisdiction"

III

Issue Presented

The collection and extortion, fraud, and conspiracy of the illegal alleged Income Tax liability which was extracted from Citizen in Party/Appellant illegally for the year 1991, which compelled Citizen in Party/Appellant to pursue this relief of action within the Law.

Citizen in Party/Appellant states, declares, and believes that Appellee and the Tax Court are nothing but "Gestapo" in perpetration of theft, conspiracy, fraud, corruption and extortion for any alleged Income Tax. Since our system of taxation is voluntary as declared by the Supreme Court of the United States of America.

IV

Statement of the Case

The illegal "Notice of Deficiency", Notice of Levy, that was issued to the Citizen in Party/Appellant for the year 1991, was in total violation of law, to defraud, extort, conspire and steal in a "Gestapo" fashion from Citizen in Party/Appellant under duress, the alleged tax illegally since Citizen in Party/Appellant is not liable for any alleged payment of Income Tax.

V

A Summary Argument

The Tax Court is an Article III Court without subject matter jurisdiction, further facts that Internal Revenue Code Sections 621(a)(b) 6213,6214, which pertains to the Tax Court are without Legislative Implementing Regulations or any enforcement whatsoever. Citizen in Party/Appellant does believe that Citizen in Party/Appellant is not under the jurisdiction of the corrupt Tax Court or the Corrupt Internal Revenue Service. It is a Principle of Law that, once challenged, the person asserting jurisdiction must prove that jurisdiction to exist as a matter of Law.

Title 5 of the United States Code §556(d) states as follows: "When jurisdiction is challenged the burden of proof is on the gov-

ernment" See: U.S. V. Choate (cas)276 F2d 724
Mc Nutt V. G.M. 56 S. Ct. 789, 80 L. Ed. 1135
Griffin V. Matthew, 310 Supp. 341,423,F2d 272
Basso V. U.P.L. 495 F. 2d 906
Thomson V. Gaskiel, 62 S. Ct. 673, 83L Ed. 111

"Jurisdiction of the subject matter is derived from the Law. It can neither be waived nor conferred by consent of the accused. Objection that the Court does not have jurisdiction of the subject matter may be made at any time, the Tax Court was and is without subject matter jurisdiction and the right to make such objections is never waived." See:

Harris V. State 46 Del 111
Stillwell V. Markham 135 kan 206
State V. Slorah 118 Me. 203
Grace V. American Central Insurance Company 109 U.S. 287

It is hornbook law that before a court can have jurisdiction, there must be a Federal Statute capable of being violated.

VI

An Argument

Citizen in Party/Appellant believes that there is no Law, Statute or Liability to file and pay the illegal and fraudulent Income Tax alleged and extorted for the year 1991. Citizen in Party/Appellant contends and believes that pursuant to the Privacy Act Notice, Internal Revenue Code (1954) Sections 6001, 6011, 6012, Individual Master File MFR-01, 1040 Booklet, Flora V. The United States of America 362 U.S. 145, 176, Bothke V. Terry 713 F 2d 1405, Laing V. The United States of America 96 S. Ct. 473, Cheek V. The United States of America 111 S. Ct. 604, Brushaber V. Union Pacific Railroad 240 U.S.1,17;36 S. Ct. 236, 241, Stapler V. The United States of America 21F.Supp 737 at 739, The United States of America V. Lloyd R. Long Cr 19391, Official Internal Revenue Service Tax Audit Guide, Internal Revenue Service Handbook for Special Agents as Representation and Interpretation of Law. The Appellee is without any enforcement authority of any kind to have illegally extorted the sum of $7,623.40 from Citizen in party/Appellant Individual Retirement Account for the year at issue, 1991, Since our tax system is based on Voluntary Self-Assessment and Payment, not upon Distraint (force).

Citizen in Party/Appellant believes there has been no violation of any alleged known legal duty for the year 1991, and that the fraud, conspiracy extortion, corrupt and illegal Income Tax is gains/profit on corporate privileges and a Corporation Excise Tax. The Citizen in Party/Appellant believes that the corrupt Appellee (Internal Revenue Service) and corrupt Tax Court are in total violation of unalienable rights, life, liberty and pursuit of happiness, and in violation of Constitutional Rights under the 1st, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, 13th and 14th Amendments and Article III, Section 1 and 2 and Article IV Section 2 of the Constitution of the United States of America. The Appellee and the Tax Court are in total violation of all Congressionally Mandated Procedures, for its corrupt, fraud conspiracy and extortion of $7623.40 for the year 1991, which the Citizen in Party/Appellant was railroaded without Due Process of Law.

VII

The Principles of Law Citizen in Party/Appellant Relies On

In Revenue Code of 1954 Sections 6001, 6011,6012, Internal Revenue Code Sections 6201(1) and 6203.

1) There must be a signed return or list made by taxpayer before an assessment.
2) Bull V. The United States of America 295 U.S. 247
3) Constitution of the United States of America 1st, 4th, 5th, 6th, 7th, 9th, 10th, 11th, and 14th Amendments.
4) Code of Federal Regulation and/or its Implementing Regulations.
5) United States Supreme Court Case Laws:
Flora V. The United States of America 362 U.S.145, 176

Cheek V. The United States of America 111 S. Ct. 604
Laing V. The United States of America 96 S. Ct. 473
Brushaber V. Union Pacific Railroad 240 U.S. 1 17; 36 S. Ct. 236,241
Miranda V. Arizona, 384 U.S. 436, 491 86 S. Ct. 1602
The United States of America V. Kaiser 80 S. Ct 1264

6) Ninth Circuit Court Case Laws:

The United States of America V. Long CR 19391
Bothke V. Terry 713 F2d 1405
Greyhound Corporation V. United States of America 495 F2d 863
The United States of America V. Leo J. Dorey Jr 83-1322
Marbury V. Madison 5 U.S. (2 Cranch) 137,174,176
Norton V. Shelby County 118 U.S. 425 P. 442

7) Government Interpretation of Law "Privacy Act Notice", 1040 Booklet, Individual Master File MFR-01, Official Internal Revenue Service Tax Audit Guide, Internal Revenue Service Handbook for Special Agents and Internal Revenue Service Publication 21

8) Lack of alleged tax liability and assessment.

9) Income Tax is Corporate Profit;

Stapler V. The United States of America 21 F. Supp 736 at 739
Brushaber V. Union Pacific Railroad 240 U.S. 1, 17;36 S. Ct. 236, 241
Stapler V. The United States of America 21 F Supp 737 at 739
McCutchin V. Commissioner of Internal Revenue Service 159 F2d 472
Evans V. Gore 253 U.S. 245

VIII

Relief Sought by Citizen In Party/Appellant

1) That Appellee restore the full amount illegally extorted

and seized under Color of Law which is $7623.40 plus interest.

2) The Appellee cease and desist from intimidating and harassing Citizen in Party/Appellant herein and forever after.

3) That the Appellee cease and desist any and all illegal liens, levies and deficiencies herein and forever after.

4) Citizen in Party/Appellant to be awarded $1,000,000.00 (One Million Dollars) in punitive damages.

IX

Conclusion

Despite the fact that Citizen in Party/Appellant is not required by law to file or pay the illegal and fraudulent Income Tax for the year 1991, and since our tax system is based on Voluntary Self-Assessment and not force, as declared by the Supreme Court of the United States of America, the Citizen in Party/Appellant must not be further punished and subjected to the Appellee harassment, intimidation, abuse, extortion, corruption, theft and conspiracy because of a voluntary system of taxation. Nor should the Appellee be allowed to perpetrate and benefit illegally and fraudulently because of the dereliction of its own corrupt Judge and corrupt Tax Court as well as corrupt Federal Judge William F. Downes.

The Citizen in Party/Appellant is not liable for the illegal extortion of alleged Income Tax for the year 1991, nor is there a law making him liable for such an alleged Income Tax.

The Citizen in Party/Appellant further contends that the Court and Judge William F. Downes;

1) Applied the wrong law, since there is no law that applies to the payment of alleged Income Tax.

2) The Court and Judge William F. Downes incorrectly decided the fact of the Appellee Constitution violation and Congressionally Mandated Procedure which were violated.

3) Judge Downes and the Court did not consider grounds for relief , and punitive damages for the Citizen in Party/Appellant-Constitutional Violation and Violation of Mandated Procedures.

4) Citizen in Party/Appellant believes that Judge William F. Downes and the Court Judgment was totally wrong, totally corrupt and totally bias in favor of the Appellee.

5) The Common Law hearing held in Casper, Wyoming on September 4, 1997, in a Common Law Court which is the extension of the Supreme Court of the United States of America under Title 28-1331 Original Jurisdiction. Federal Courts and District Courts are controlled by the Constitution of the United States of America and Oath and Affirmation.

Judge William F. Downes is of Oath and Affirmation, and under Federal Rules of Civil Procedures 12.(b) 7. Judge William F. Downes must join with the Citizen in Party/Appellant, since Judge William F. Downes had no standing to rule over the Citizen in Party/Appellant (in dismissal).

Judge William F. Downes did not have joinder Federal Rules of Civil Procedure 12.(b)1 therefore Judge William F. Downes "Dismissal Order on September 22, 1997 initiated Federal Rules of Civil Procedure 12.(b)6, 'failure to state a claim on which relief can be grounded'".

Judge William F. Downes did not have jurisdiction with Citizen in Party/Appellant, Judge William F. Downes never set the venue, in order to have jurisdiction other that a Common Law Court under appellants Title 4 United States Code 1 American Flag, or to rule a dismissal, or rule over two jurisdictions at the same time. The fact is since the hearing held on September 4, 1997 in Judge William F. Downes Federal Court, that the court, the Citizen in Party/Appellant, Judge William F. Downes, and Appellee were under and in a Common Law Court, under Title 4 United States Code 1 American Flag, and under Common Law Jurisdiction under the 7th Amendment of the Constitution of the United States of America, as stated by the Supreme Court of the United States of America. Guaranty has always been construed to mean a trial in the mode according to the settled rules of the Common Law and the Constitution.

6) Citizen in Party/Appellant requests this Honorable court to take action in reversing the illegal, corrupt and biased decision

of Judge William F. Downes and the Court and to allow citizen in Party/Appellant the right of Due Process and the right to the Court under the 7th Amendment of the Constitution of the United States of America.

7) Citizen in Party/Appellant further requests and insists an oral argument, to further prove the facts against the Appellee in their allegations and perpetration of fraud, extortion and conspiracy.

Therefore based upon the Federal Court and Judge William F. Downes illegal, corrupt and bias decision in granting the writ, the Citizen in Party/Appellant demands that this Honorable court issue that writ of Habeas corpus "Cum Causa" forthwith. See: Fay V. Noia 372 U.S. 391, 83 S. Ct. 822 L. Ed 837.

Citizen in Party/Appellant further insists that this Honorable Court issue a reversal of Judge William F. Downes decision in order to allow the Constitutional Rights of Due Process under the 7th Amendment of the Constitution of the United States of America, and the right of a citizen to a trial by jury of his peers. Citizen in Party/Appellant further demands and insists that the Appellee "As a matter of law, cite to Citizen in Party/Appellant the Statute the makes Citizen in Party/Appellant liable to pay Income Tax based on a return and cite to Citizen in Party/Appellant its Legislative Implementing Regulations."

Submitted,

Edward Lesoon
Citizen in Party/Appellant
P.O. Box 3427
Alpine, Wyoming 83128

CERTIFICATE OF MAILING OF OPENING BRIEF

I, the undersigned, hereby certify that I mailed a copy of Notice to the following on this 10th day of November, 1997 by certified U.S. Mail at Afton, Wyoming 83110.

To:
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Casper, Wyoming 82601

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Edward Lesoon
November 10, 1997

Appellant/Citizen in Party,

/s/ Edward Lesoon
Appellant/Citizen in Party

Edward Lesoon
P.O. Box Box 3427
Alpine, Wyoming 83128
307-886-0115

November 10, 1997

/s/
Lisa Hokanson
Notary Public

Notary Stamp

Postal Stamp
Afton, Wyoming
November 10,1997

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT
OFFICE OF THE CLERK
BYRON WHITE UNITED STATES COURT HOUSE
1823 STOUT STREET
DENVER, COLORADO 80257

EDWARD LESOON	)	
Citizen in Party/Appellant	)	DOCKET NO. 97-015
	)	
V.	)	REF: 97-8105
	)	
THE UNITED STATES	)	
OF AMERICA	)	
Appellee	)	

MOTION TO DENY APPELLEE'S MOTION FOR A 30 DAY EXTENSION OF TIME IN WHICH TO FILE ITS BRIEF

Comes now the Citizen in Party/Appellant, Edward Lesoon to request this Honorable Court of Appeals to review and consider all the enclosed Facts.

Under U.C.C. 3-501: Under Title 42 U.S.C. 1986 for knowledge of the law for Federal Rules of Civil Procedure, Rule 60(b) and Federal Rules of Civil Procedure, Rule 38(a), the case titled above is under the Title 4 United States Code. 1 American Flag, referenced under Presidential Executive Order 10834, and under Article 6 Section (3): Oath of Fiduciary Officers of the Court, and under Article (4) Section(3): No "State" (Natural Party) shall be created from any state (land) and United States Code. A. 11: "Foreign State" (Law of the Flag) shall have jurisdiction over a Sovereign Citizen in Party, and Article (1) Section (9): No Titles of Nobility under any foreign flag jurisdiction and in breach of the treaty of Title 28 United States Code. 1605 "Foreign Sovereign Immunity Act" of October 21, 1976 and in breach of the

Constitution of the United States of America, will be allowed in the jurisdiction of this case.

Breach of the contract will cause sanction under Federal Rules of Civil Procedure rule 16(F). When the Constitution of the United States is surrendered for a foreign states/power, will cause the breach of contract, of Oath or Affirmation, for the Constitution of the United States of America, then charges for Perjury of Oath Title 18 United States Code. 1621, Constructive Treason, and contempt for the Constitution of the United States of America, and false swearing will be brought against the officers of the Court responsible.

Appellant/Citizen in Party does invoke this Court Jurisdiction pursuant to the 1st Amendment of the United States Constitution and to the 4th, 5th, 6th, 7th, 8th, 9th, 13th Amendments, and the 14th Amendment Section I. Also Article III, Sections 1 and 2 of the United States Constitution.

The Appellant/Citizen in Party request this Honorable Court of Appeals to completely Cancel and Void Fine and Decision made by Lower Tax Court on April 15, 1997, since the Lower Tax Court is without Subject Matter Jurisdiction and in Violation of Rules and Regulation of Internal Revenue Code of 1954. The Appellant/Citizen in Party has no liability for any alleged income tax for years 1992-1993. "As a matter of Law, I request this Honorable Appeal Court to cite to Citizen in Party/Appellant the statute that makes Citizen in Party/Appellant liable to pay income tax based on a return, and cite to Citizen in Party/Appellant its "Legislative Implementing Regulations". Citizen in Party/Appellant request this Honorable Appeal Court to DENY Appellee's Motion for a 30 day Extension of Time in Which to file its Brief by Appellee and their Attorneys dated November 24, 1997.

APPELLANT'S FOR MOTION TO DENY APPELLEE'S MOTION FOR A 30 DAY EXTENSION OF TIME IN WHICH TO FILE ITS BRIEF

The Citizen in Party/Appellant respectfully request this Honorable Appeal Court to DENY Appellee's Motion for a 30 day extension of time in which to file its brief in regards to the above-entitled case for the following reasons:

1. It is ludicrous for Appellee to request a time extension to file its brief, since it is bias and discrimination in favor of the Appellee and their attorney.

2. Further note that Citizen in Party/Appellant was able to file a brief in the 40 days required by the Appeal Court, Rule 31(A). Certainly with all the power, and attorneys at the Appellee's disposal they should be able to do just the same in accordance with Federal Rules of Appellate Procedure 31(a).

3. The reasons given by Appellee for the extension of time are only for delay, and are immaterial and insufficient for such a request to be granted.

4. Motion for an extension of time in which to file Appellee brief is only interpretation of delay of Due Process and to further cloud the issues at hand for the year 1991.

5. Citizen in Party/Appellant further wishes to point out that 10th Circuit R.31.5 Extensions states "Extension of time to file briefs are not favored." The Citizen in Party/Appellant contends that the Appellee and their attorney do not qualify under Federal Rule of Appellate Procedure 10th Circuit R. 27.4.1.

Therefore comes now the Citizen in Party/Appellant Edward Lesoon to respectfully request this Honorable Appeal Court to DENY Appellee's motion for an extension of time in which to file its brief, and proceed with Due Process of Law.

Respectfully Submitted,

/s/Edward Lesoon

Edward Lesoon
Citizen in Party/Appellant
P.O. Box 3427
Alpine, Wyoming 83128

Certified Mail Number____________________

Dated this 1st day of December, 1997

/s/
Lisa Hokanson
Notary Public

Notary Stamp

CERTIFICATE OF MAILING

I, the undersigned, hereby certify that I mailed a copy of Notice to the following on this 1st day of December, 1997 by certified U.S. Mail at Afton, Wyoming 83110.

To:

Pamela C. Berry
Attorney/Dept. Of Justice
Appellate Section
P.O. Box 503
Washington, D.C. 20044

United States Court of Appeals
For the Tenth Circuit
Office of the Clerk
Byron White United States Courthouse
1823 Stout Street
Denver, Colorado 80257

Appellant/Citizen in Party,

/s/Edward Lesoon
Appellant/Citizen in Party
Edward Lesoon
P.O. Box 3427
Alpine, Wyoming 83128
307-886-0115

/s/
Lisa Hokanson
Notary Public

Notary Stamp
GUEST OPINION — Thursday, December 18, 1997

Maintaining Judicial Independence

by Judge William S. Sessions
former Federal Judge and
FBI Director

"... Rather, the true role of a trial or appellate judge is to uphold the rule of law and ensure that justice is done. This principle is at the core of our democracy. This critically serious business requires that a judge protect the rights of all participants in a trial as well as the public interest. This principle is what has made the American legal system the most copied judicial system model in emerging democracies around the world. ..."

U.S. Department of Justice
Tax Division

Facsimile No. (202) 514-8456
Telephone No. (202) 514-3361

Please reply to:
Appellate Section
P.O. Box 502
Washington, D.C. 20044

PCBerry:cnp
5-87-1019
CMN 9754382

January 14, 1998

Patrick Fisher, Esquire
Clerk, U.S. Court of Appeals
for the Tenth Circuit
Byron White United States Courthouse
1823 Stout Street
Denver, CO 80257

Re: Edward Lesoon v. United States
(10th Cir. - No. 97-8105)

Dear Mr. Fisher:

We are enclosing the original and three copies of motion for sanctions against the appellant for bringing a frivolous appeal, together with a supporting memorandum and declaration in the above-entitled case. Please submit the motion to the Court together with our brief on behalf of the appellee, which is being filed today under separate cover. As noted in the motion itself, we suggest that this motion be assigned to the same panel to which the case is submitted on the merits.

We are serving copies of the motion, memorandum and declaration upon the appellant, who is appearing pro se, together with a copy of this letter. If you have any questions I may be reached at (202) 514-2988.

Sincerely yours,

/s/
Pamela C. Berry
Attorney
Appellate Section

Enclosures
cc: Mr. Edward Lesoon
P.O. Box 3427
Alpine, Wyoming 83128

David D. Fruedenthal, Esquire
United States Attorney
Post Office Box 668
Cheyenne, WY 82003

IN THE UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

EDWARD LESOON,)
)
Plaintiff-Appellant)
)
v.) No. 97-8105
)
UNITED STATES)
OF AMERICA)
)
Defendant- Appellee)

MOTION FOR SANCTIONS

Pursuant to Fed. R. App. P. 38(a) and 28 U.S.C § 1927, the United States of America, appellee herein, by and through its counsel, respectfully moves this Court to impose sanctions against the appellant in the above-captioned case for bringing a frivolous appeal. The reasons supporting the imposition of sanctions are set forth in the accompanying memorandum. We respectfully suggest that this motion be carried with the case and decided by the panel at the same time as the merits of the case.

/s/
PAMELA C. BERRY
Attorney, Appellate Section
Tax Division
Department of Justice
Washington, D.C. 20044
(202) 514-2988
Counsel for the Appellee

Dated: This 14th day of January, 1998

IN THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

EDWARD LESOON,)
)
Plaintiff-Appellant)
)
v.) No. 97-8015
)
UNITED STATES OF AMERICA,)
)
Defendant-Appellee)

MEMORANDUM IN SUPPORT OF APPELLEE'S MOTION FOR SANCTIONS

STATEMENT

After the Tax Court entered a decision finding Edward Lesoon (taxpayer) liable for an income tax deficiency and additions to tax for 1991, an assessment was made and the amounts due were collected by levy. (Doc. 12 at 2-4.) 1/ Taxpayer then brought this suit, seeking a refund of the amounts collected, a blanket injunction against any further collection of taxes and damages for the collection activity. (Doc. 6.)

Taypayer's complaint was devoted almost entirely to a variety of tax-protester arguments. According to the complaint, "no 'Law' required [taxpayer] to file or pay any alleged income tax for the year 1991" (Doc. 6 at 3); "no 'Law' established such a thing as an income tax liability" (ibid.); "there is no law subjecting [taxpayer's] pursuit of livelihood (reenumeration [sic] for work performed) to federal withholding laws, nor any laws abrogating [taxpayer's] common law right to earn said livelihood, or to enter into work contracts" (id. at 5 (emphasis in original)); "the Internal Revenue Service is without jurisdiction over" taxpayer (ibid.); (5)

1/ "Doc." references are to the documents comprising the original record, as numbered by the Clerk of the District Court.

"'no deficiency or assessment' can exist unless [he] files a tax 'return or confession' and show[s] an income tax due" (id. at 4), and since he had not filed a return for 1991, he owed no tax (id. at 5); and the Tax Court was not a properly constituted court with jurisdiction to determine a deficiency against him (id. at 3).

the District Court dismissed taxpayer's complaint. It held that I.R.C. § 6512(a) deprived it of jurisdiction to entertain a claim for refund, inasmuch as that statute expressly precludes a refund suit from being filed for the same year in respect of which the taxpayer is issued a notice of deficiency and files a petition in the Tax Court. So, too, fell the taxpayer's bid for an injunction under I.R.C. § 7421(a), commonly known as the Anti-Injunction Act (although not cited by the court), which deprives the courts of jurisdiction to entertain a request to enjoin the assessment or collection of federal taxes, in accordance with that provisions express terms. The District Court went on to hold that the complaint failed to state a claim for damages for unauthorized collection activity under I.R.C. § 7433, since the statute applies only to reckless or intentional violations of the provisions of the Code and regulations that govern collection activity and there was no allegation that any failure to abide by the statutory procedures was reckless or intentional, as opposed to merely negligent or inadvertent.

DISCUSSION

On appeal, taxpayer continues to assert that "our system of taxation is voluntary" (Br. 8) and that "there is no Law, Statute or Liability to file and pay the illegal and fraudulent Income Tax alleged and extorted for the year 1991" (Br. 8). These arguments are patently frivolous and have been rejected by every court which has considered them. See, e.g., United States v. Gosnell, 961 F.2d 1518, 1520 (10th Cir. 1992); United States v. Dawes, 874 F. 2d 746, 750-751 (10th Cir.), cert. denied, 493 U.S. 920 (1989); Lonsdale v. United States, 919 F. 2d 1440, 1448 (10th Cir. 1990); United States v. Collins, 920 F.2d 619, 629 (10th cir 1990), cert. denied, 500 U.S. 920 (1991); Charczuk v. Commissioner, 771 F.2d

471, 472-474 (10th Cir. 1985); Snead v. Commissioner, 733 F.2d 719, 719-720 (10th Cir. 1984), on motion to reconsider or modify mandate, 744 F.2d 1448 (10th Cir. 1984); United States v. Stillhammer, 706 F.2d 1072, 1077 (10th Cir. 1983).

It is highly pertinent that Taxpayer has intransigently persisted in pressing these frivolous arguments despite being warned by the District Court that further abuse of process would not be tolerated. In its order dismissing taxpayer's case for lack of subject matter jurisdiction, the District Court reminded (Doc. 25 at 5-6) taxpayer that the Tax Court considered imposing penalties on him for proceeding with a frivolous and groundless complaint with respect to his 1991 taxable year, and "admonish[ed] [taxpayer] not to consume court resources in the continued pursuit of unwarranted litigation." Taxpayer has ill requited the patience of both courts, for he still pursues this frivolous appeal. 2/

In view of the clearly frivolous nature of these contentions, it would be appropriate for this Court to impose appropriate sanctions against taxpayer for bringing this frivolous appeal. An award of damages for the abuse of judicial process is a matter within the sound discretion of this Court. Trohimovich v. Commissioner, 776 F.2d 873 (9th Cir. 1985). Sanctions for abuse of the judicial process by bringing frivolous appeals are authorized by several statutory provisions, including 28 U.S.C., Section 1912, authorizing damages and single or double costs (e.g., Snead v. Commissioner, supra) and Rule 38 of the Federal Rules of Appellate Procedure, authorizing damages and single or double costs for maintaining a frivolous appeal (e.g., Lonsdale v. United States, supra; Casper v. Commissioner, 805 F.2d 902, 906 (10th Cir. 1986); Betz v. United States, 753 F. 2d 834, 835 (10th Cir. 1985)).

2/ There is currently pending before this Court another appeal by taxpayer in a federal income tax case, Lesoon v. Commissioner (10th Cir. - No. 97-9014). That appeal is from a decision of the Tax Court dismissing taxpayer's petition with respect to the years 1992 and 1993 for failure to state a claim upon which relief could be granted. In that case, both before the Tax Court and on appeal, taxpayer has maintained that the income tax is voluntary and he chose not to pay it and that the Tax Court was without jurisdiction to determine deficiencies in tax. In that appeal, the Commissioner also filed a motion for sanctions to be imposed on taxpayer for bringing a frivolous appeal.

This Court and the other courts of appeals have grown increasingly impatient with the frivolous issues that have been raised in a seemingly endless series of "tax-protest" cases, and have awarded damages or other extraordinary costs in such cases, either on their own motion (Lively v. Commissioner, 705 F.2d 1017, 1018 (8th Cir. 1983); McCoy v. Commissioner, 696 F. 2d 1234, 1237 (9th Cir. 1983)) or on motion of the Government (Casper v. Commissioner, 805 F. 2d at 906; Stafford v. Commissioner, 805 F.2d 893, 894 (10th Cir. 1986); Betz v. United States, 753 F.2d at 835)).

An appeal is frivolous when the result is obvious or the appellant's arguments of error ar wholly without merit. Braley v. Campbell, 832 F. 2d 1504, 1510 (10th Cir. 1987). Taxpayer's position in this appeal is plainly frivolous, and this Court has repeatedly sanctioned taxpayers for pressing similar arguments. E.G., United States v. Gosness, supra; Lonsdale v. United States, supra; Czarchuk v. Commissioner, supra; Snead V. Commissioner, supra. As this Court stated in Charczuk v. Commissioner, 771 F. 2d at 475, "[c]ourts are in no way obligated to tolerate arguments that thoroughly defy common sense."

The courts that have awarded sanctions for the bringing of frivolous appeals have employed a variety of methods for measuring the amount of damages. This Court previously has set damages at $1,500 in frivolous appeals from the Tax Court. Casper v. Commissioner, 805 F. 2d at 906. Prior to its decision in Casper, this Court had imposed damages measured by the costs incurred by the Commissioner in defending the frivolous appeal, pursuant to a cost bill to be submitted reflecting brief reproduction costs, attorneys' salaries and overhead costs. E.g., Snead v. Commissioner, supra. As we read Casper, this Court has departed from that approach, at least in frivolous appeals from the Tax Court, and we believe that it would be appropriate to use the Casper approach in a frivolous tax appeal from a district court as well. We, therefore, suggest that an award of a flat amount of damages is appropriate here, in light of the similarity of the arguments taxpayer raises here to those raised in other suits where damages were imposed. E.g., United States v. Gosnell, supra (imposing $1,500 in sanctions against taxpayer who defended suit to reduce assessments to judgment by raising frivolous contentions).

We have come to believe that an award of $2,000, rather than only $1,500, is an appropriate sanction for the bringing of a frivolous appeal such as this. As the Seventh Circuit pointed out in Coleman v. Commissioner, 791 F. 2d 68, 73 (7th Cir. 1986), even an award of $1,500 in sanctions often does not recompense the Government and the courts for the resources expended in connection with a frivolous appeal. In recent years, other courts of appeals have on occasion imposed sanctions of more that $1,500 where the appeals were based upon tax-protester arguments. E.g., In re Becraft, 885 F. 2d 547, 550 (9th Cir. 1989) ($2,500 award); Paulson v. United States, 758 F. 2d 61, 62 (2d Cir. 1985) ($2,500 award); Stoecklin v. Commissioner, 865 F. 2d 1221, 1226 (11th Cir. 1989) ($3,000 award). Notably, the Fifth Circuit has imposed sanctions of $2,000 in several cases involving frivolous challenges to federal income taxes. Crain v. Commissioner, 737 F. 2d 1417, 1418 (5th Cir. 1984); Hallowell v. Commissioner, 744 F. 2d 406, 408 (5th Cir. 1984); Stelly v. Commissioner, 804 F. 2d 868, 872 (5th Cir. 1986), cert. denied, 480 U.S. 907 (1987); Stelly v. Commissioner, 804 F. 2d 872, 873 (5th Cir. 1986), cert. denied, 480 U.S. 907 (1987); Stelly v. Commissioner, 808 F. 2d 442, 443 (5th Cir. 1987). And the

Seventh Circuit in Cohn v. Commissioner, 101 F. 3d 486, 487 (7th Cir. 1996), recently decided to increase the flat award of damages in tax protester cases from $1,500 to $2,000, noting that the 33 percent increase was less that the 44 percent increase in the consumer price index since its decision in Coleman.

We therefore respectfully request this Court to consider adopting a flat rule imposing $2,000 in sanctions, rather than $1,500, in a frivolous tax appeal, in lieu of costs and attorney's fees. Several years ago, this Court stated that "this circuit has made itself clear on these and similar issues numerous times, [and] taxpayers cannot by any stretch of the imagination assert that their arguments regarding the taxability of wages have any support in this circuit." Lonsdale v. Commissioner, 919 F. 2d at 1447-1448. This Court should not tolerate the raising of such arguments at this late date. Although an award of $2,000 may not cover all of the costs attending this frivolous appeal (such as the judicial resources needlessly expended), such an award would serve the purposes of punishing the bringing of this frivolous appeal deterring future frivolous appeals, compensating the Government for at least the direct costs of defending the appeal, and markedly reducing the flow of paper and expenditure of time incident to the awarding of damages.

CONCLUSION

This court should impose sanctions upon taxpayer in the amount of $2,000 for maintaining this frivolous appeal.

Respectfully submitted,

/s/
Teresa E. McLaughlin (202) 514-4342
Pamela C. Berry (202) 514-2988
Attorneys
Tax Division
Department of Justice
Post Office Box 502
Washington, D.C. 20044

JANUARY 1998

IN THE UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

EDWARD LESOON,)
)
Plaintiff-Appellant)
)
v.) No. 97-8105
)
UNITED STATES OF AMERICA,)
)
)
Defendant-Appellee)

DECLARATION

I, Pamela C. Berry, of the Tax Division of the Department of Justice, Washington, D.C., state as follows:

1. I am an attorney employed in the Appellate Section of the Tax Division of the Department of Justice, and in that capacity I have been assigned the primary responsibility for handling the above-entitled case on behalf of the appellee.

2. The facts set forth in the accompanying motion for sanctions and supporting memorandum are true to the best of my knowledge and belief.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct. Executed this 14th day of January, 1998, at Washington D.C.

/s/
PAMELA C. BERRY
Attorney

CERTIFICATE OF SERVICE

It is hereby certified that service of this motion, supporting memorandum and declaration has been made on the appellant, appearing pro se, on this 14th day of January, 1998, by mailing a copy thereof, in an envelope, properly addressed as follows:

Mr. Edward Lesoon
P.O. Box 3427
Alpine, Wyoming 83128

/s/
PAMELA C. BERRY
Attorney

IN THE UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

EDWARD LESOON,)
)
Plaintiff-Appellant)
)
v.) No. 97-8105
)
UNITED STATES OF AMERICA)
)
Defendant-Appellee)

MOTION FOR SANCTIONS

Pursuant to Fed. R. App. P. 38(a) and 28 U.S.C. § 1927, the United States of America, appellee herein, by and through its counsel, respectfully moves this Court to impose sanctions against the appellant in the above-captioned case for bringing a frivolous appeal. The reasons supporting the imposition of sanctions are set forth in the accompanying memorandum. We respectfully suggest that this motion be carried with the case and decided by the panel at the same time as the merits of the case.

ORDERED
This matter will be referred to the panel assigned to dispose of the case on the merits.
/s/
L. Balzano 1/21/98
Deputy Clerk

/s/
PAMELA C. BERRY
Attorney, Appellate Section
Tax Division
Department of Justice
Post Office Box 502
Washington, D.C. 20044
(202) 514-2988
Counsel for the Appellee

Dated: This 14th day of January, 1998.

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT
OFFICE OF THE CLERK
BYRON WHITE UNITED STATES COURT HOUSE
1823 STOUT STREET
DENVER, COLORADO 80257

EDWARD LESOON	)	
	)	
Citizen in Party/Appellant	)	DIST/AG DOCKET 97-015-D
	)	
V.	)	
	)	
UNITED STATES OF AMERICA	)	REF: 97-8105
	)	
	)	
Appellee	)	

MOTION TO DISMISS APPELLEE'S ILLEGAL SANCTIONS REQUEST

Comes now the Citizen in Party/Appellant, Edward Lesoon to request this Honorable Court of Appeals to review and consider all the enclosed Facts.

Under U.C.C. 3-501: Under Title 42 U.S.C. 1986 for knowledge of the law for Federal Rules of Civil Procedure, Rule 60(b) and Federal Rules of Civil Procedure, Rule 38(a), the case titled above is under the Title 4 United States Code. 1 American Flag, referenced under Presidential Executive Order 10834, and under Article 6 Section (3): Oath of Fiduciary Officers of the Court, and under Article (4) Section (3): No "State" (Natural Party) shall be created from any state (land) and United States Code. A. 11: "Foreign State" (Law of the Flag) shall have jurisdiction over a Sovereign Citizen in Party, and Article (1) Section (9): No Titles of Nobility under any foreign flag jurisdiction and in breach of the treaty of Title 28 United States Code. 1605 "Foreign

Sovereign Immunity Act" of October 21, 1976 and in breach of the Constitution of the United States of America, will be allowed in the jurisdiction of this case.

Breach of the contract will cause sanction under Federal Rules of Civil Procedure rule 16(F). When the Constitution of the United States is surrendered for a foreign states/power, will cause the breach of contract, of Oath or Affirmation, for the Constitution of the United States of America, then charges for Perjury of Oath Title 18 United States Code. 1621, Constructive Treason, and contempt for the Constitution of the United States of America, and false swearing will be brought against the officers of the Court responsible.

Appellant/Citizen in Party does invoke this Court Jurisdiction pursuant to the 1st Amendment of the United States Constitution and to the 4th, 5th, 6th, 7th, 8th, 9th, 13th Amendments, and 14th Amendment Section I. Also Article III, Sections 1 and 2 of the United States Constitution.

The Appellant/Citizen in Party has no liability for any alleged income tax for years 1991. "As a matter of Law, I request this Honorable Appeal Court to cite to Citizen in Party/Appellant the statute that makes Citizen in Party/Appellant liable to pay income tax based on a return, and cite to Citizen in Party/Appellant request this Honorable Appeal Court to cancel and void Sanction Request by Appellee and their Attorneys dated January 14, 1998.

MOTION TO DISMISS APPELLEE ILLEGAL SANCTIONS REQUEST

Comes now the Citizen in Party/Appellant, Edward Lesoon to request this Honorable Court of Appeals to review and consider all the enclosed facts.

Citizen in Party/Appellant requests this Honorable Appeal Court to dismiss the Sanctions Request by Appellee and their attorney filed on January 14, 1998 (copy enclosed) for the following facts and reasons:

1) The Citizen in Party/Appellant request for Appeal is not "frivolous pursuant to the 1st Amendment right, 'The right of the people to petition the Government for a redress of grievances.'"

2) Supreme Court of the United States: Flora V. United States 362 U.S. 145, 176 "The income tax system is a self reporting and self-assessing one. It is based upon voluntary assessment and payment, not upon distrain (force)." Citizen in Party/Appellants right to rely upon the Supreme Court cannot be questioned.

3) the Supreme Court of the United States in Conely V. Gibson 335 U.S. 41 78 S. Ct. 99 L. Ed 2d 80, 85, 107, stated: "A complaint should not be dismissed for failure to state claim unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief. Right to rely on Supreme Court cannot be questions.

4) It is totally preposterous, fraud, extortion, theft, conspiracy and corruption for the Appellee and their attorney to request sanction in presumption to alleged and perpetrated illegal liability without any support of law, and without any violation of Legal Known Duty.

5) It is totally corrupt for Appellee and their attorney to request sanctions since the Citizen in Party/Appellant *did not violate any legal known duty that pertains to the illegally alleged charges.*

6) The Appellee and their attorneys are in violation of Citizen in Party/Appellant Constitutional rights under the 1st, 4th,

5th, 13t, and 14th amendments.

7) The sanction request is lies corrupt, illegal, extortion and fraud since the Appellee and their attorneys did not provide the Citizen in Party/Appellant with copy of statute that makes Citizen in Party/Appellant liable for the alleged income tax and its Legislative Implementing Regulations, as requested many times.

"The Taxpayer must be liable for the income tax, tax liability is a condition precedent to the demand, merely demanding payment even repeatedly does not cause liability." See Bothke v. Fluor Engineers and Contractors, 713 F. 2nd 1405 (1983). "Further note Supreme Court of the United States Justice John Marshall: "The power to tax involves the power to destroy." Se McCullock V. Maryland, 4 Wheat, 17 U.S. 316, 415, 431 (1819). Citizen in Party/Appellant right to rely upon the Supreme Court cannot be questioned: "Liability for taxation must clearly appear from statute imposing tax" See Highley V. Commissioner of Internal Revenue Service 69 F 2d 160. The collection of taxes should be enacted only from person upon whom a tax liability imposed by some statute." See Botta V. Scanlon 288 F 2d 509.

In this interpretation of statutes levying taxes, it is the established rule not to extend their provisions by implication beyond the clear import of the language used, or to enlarge their operation so as to embrace matters not specifically pointed out. In case of doubt they are construed most strongly against the government, and in favor of the Citizen." See Gould V. Gould, 245 U.S. 151.

"Let me point out now; your income tax is one hundred percent voluntary, and your liquor tax is one hundred percent enforced tax..." See Mr. Dwight E. Avis, former head of th Alcohol, Tobacco and Firearms Division, Bureau of Internal Revenue before House Ways and Means Subcommittee Hearing. An income tax filing and payment cannot be done without waiving the rights under the 4th, 5th, 8th, 9th and 13th Amendments of the Constitution of the United States of America. The mission of the Internal Revenue Service or Appellee is to encourage voluntary compliance, not to enforce mandatory compliance.

"The individual cannot be taxed for the mere privilege of existing, his rights to live and own property are natural rights for the enjoyment of which an excise cannot be imposed." See Redfield V. Fisher 292 P. 813, 819 (1930).

Citizen in Party/Appellant truly believes that the corrupt Appellee and their corrupt attorneys are in full perpetration and violation. Title 28 U.D.C. 242 - Deprivation of Rights under Color of Law, provides in pertinent part; whoever, under color of law statute, ordinance, regulation, or custom, willfully subjects any inhabitant of any state, territory, or district to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution of laws of the United States...shall be fined not more than $1000.00 or imprisoned not more than one year, or both. The Appellee and their attorney only contend the presumptions of liability, but does not actually make the Citizen in Party/Appellant liable by statute of Legislative Implementing Regulations.

In addition, the phrases "every person liable", "any person made liable", " and every individual" do merely presume a liability on the part of any such persons or individuals. If there is a presumption of liability one would require the appellee to provide such a copy of the Liability of Statute and Legislative Implementing Regulations. If there is non-occurrence of a "condition precedent" the obligation of performance by the Appellee never arises. Accordingly, and legally then, without the establishment of a liability, the obligation of filing and paying any alleged income tax does not exist.

The language above is clear: if, and only if, Citizen in Party/Appellant is liable by statute and Legislative Implementing Regulations for a tax must he file a statement with the Appellee. The existence of a liability by statute and Legislative Implementing Regulations for a tax is and must be, therefore a condition precedent to the requirement of alleged tax, or filing of a statement.

The code of Federal Regulations (26 CFR) recognizes the rules of statutory construction that require an explicit liability must be established by specific statute. It is also well settled that income tax laws and regulations must be read strictly. See 26 Code of

Federal Regulations 601.106. "It is a well settled rule that tax laws are to be strictly construed...strict construction is a way to assure that no taxes be enacted except by legislative authority". See Sutherlands Rules of Statutory Construction 66.01.

It is a general principle of statutory law that a statute must be definite to be valid, and both the statute and the regulations are required, and under Part 1, Income Taxes, Code of Federal Regulation there are no regulations authorizing a Notice of Deficiency, there it is void. Statutes creating a liability must be executed or implemented by Regulation (Code of Federal Regulations) the Appellee and their attorney are using fraud since they do not cite the statutes and corresponding regulations for which they believe the Citizen in Party/Appellant is liable for.

8) The Appellee and their attorney are in total corruption, fraud, lies and extortion in stating that the Citizen in Party/Appellant did not pay any tax for year 1991. The Appellee illegally extorted the total amount of $7,623.40 for the year 1991, therefore the Appellee sanctions request is perpetrated under Color of Law, illegally and fraud and lies, corruption and extortion.

9) The Appellee and their attorney illegal and corrupt request for sanctions is in total perpetration to deny Citizen in Party/Appellant Constitutional Rights under the 1st, 4th, 5th, 13th, and 14th Amendments of the Constitution of the United States of America and Citizen in Party/Appellant right to Due Process and Equal Protection Under the law.

10) The Appellee and their attorney are in total lies, fraud, extortion, corruption, and conspiracy in stating in the Sanctions Request filed on January 14, 1998.

11) The Citizen in Party/Appellant requests this Honorable Appeal Court to dismiss Appellee and their attorneys corrupt Motion for Sanctions dated January 14, 1998 for clouding the issue with the year 1992-1993. The Appellee is in perpetration of illegal lies, corruption, fraud, theft, extortion and conspiracy under Color of Law and in a Gestapo fashion, as well as lack of facts.

12) Citizen in Party/Appellant further requests this Honorable Court to dismiss the Appellee Sanction Request in its

entirety, since the Appellee and their attorney acted in a willful an reckless manner and in total lies and manipulation. Citizen Party/Appellant requests the dismissal of Appellee Sanctions f s fabrication of lies and fraud, since this Honorable Appeal Court is in the frame of justice, freedom and the Constitution of the United States of America.

Most relevant cases of support:

1) Flora V. United States of America 362 U.S. 145 176 (further augmented by the U.S. 9th Cir. Ct. of Appeals in Bothke V. Terry, 713 F2d 1405 in 1983). and Laing V. United States of America (1976) 96 S. Ct. 473. "The income tax system is a self-reporting and self-assessing one. It is based upon voluntary assessment and payment, not upon distraint (force)."

2) Pollock V. Farmer's Loan and Trust Co., 158 U.S. 601, 637 - Taxes on direct income from some sources had been held to be "direct taxes" within the meaning of the Constitutional requirement as to apportionment. All income from whatever source derived must be put on the same basis.

3) Botta V. Scanlon, 288 Fed. Rptr., 2d Series, 504, 505 - Tax officials are not vested with absolute power of assessment without opportunity for judicial review BEFORE seizure.

4) Economy Plumbing and Heating V. United States of America 456 F. 2d 713 - The revenue laws apply to taxpayers and NOT to non-taxpayers. No procedure is prescribed for non-taxpayers. Congress does not assume to deal with non-taxpayers, neither are they subject of nor the object of revenue laws.

5) Greyhound Corp. V. United States of America 495 F2d 863 (1974) - Doubt relative to statutory construction should be resolved in favor of the individual, not the government.

6) Perlman V. United States of America 490 F2d, 933 - Ability to exercise voluntary discretion is violated when

duress is brought on by government action.

7) Miranda V. Arizona 384 U.S. 436, 491; 86 S. Ct. 1602 - Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them.

8) Marbury V. Madison 5th U.S. (2 Branch) 137, 180 (1803) - All laws, rules and practices which are repugnant to the Constitution are null and void.

9) Boyd V. United States of America 116 U.S. 616, 635 and United States of America V. Vadner - It is the duty of the Courts to be watchful for the Constitutional rights of the citizens and against any stealthy encroachments thereon.

10) United States of America V. Lombardo 338 F. 980, 981 - To penalize the failure to give a statement which is self-incriminatory, is beyond the power of Congress.

11) Busse V. Commissioner of Internal Revenue Service 479 F2d 1143 - Courts have no power to rewrite legislative enactments to give effect to their ideas of policy and fitness or the desirability of symmetry in statutes.

12) Cheek V. United States of America 111 S. Ct. 604 - If the defendant had a subjective good faith belief, no matter how unreasonable, that he was not required to file a tax return, the government cannot establish defendant acted willfully.

13) Stokwitz V. United States of America 831 F2d 893 (9th Cir. 1987) - Taxpayer who alleged unlawful seizure and subsequent use of his tax information could pursue remedy through BIVENS action, or through other applicable tort action.

14) Masat V. Commissioner of Internal Revenue Service 784 F2d 573 (5th Cir. 1986) - Taxpayer had no constitutional or statutory right to jury trial in tax court.

15) Procter and Gamble Co. V. Commissioner of Internal Revenue Service 961 Ff2d 1255 (6th Cir. 1992) - Tax Court's legal conclusions are reviewed de novo by the appeals court.

16) Security Bank of Minnesota V. Commission of Internal Revenue Service 994 F2d 432 (8th Cir. 1993) - When there is reasonable doubt about meaning of revenue statute, doubt is resolved in favor of those taxed.

17) United States of America V. Nichols 9 F3d 1420 (9th Cir. 1993) - Offense of failure to file tax return consists of three elements; 1) Defendant was required to file tax return; 2) he failed to file return; 3) he acted wilfully.

Citizen in Party/Appellant requests this Honorable Appeal Court to deny and dismiss the Sanctions Request by Appellee and their attorneys filed on January 14, 1998 (copy enclosed) for it is totally illegal since the Citizen in Party/Appellant did not violate any legal known duty, and pursuant to Federal rules of Civil Procedure as directed by the Supreme Court of the United States in rule 2072. Title 28 United States Code. Rule 11 (b)(2)(c) (1)(a)(b)(c) (2)(a) and (c)(2)(a) and (c)(3) the rule states in parts:

Rule 11(b)(2):

"The claims, defenses, and other legal contentions therein are warranted by existing law or by a non frivolous argument for the extension, modification, or reversal of existing law or the establishment of new law."

Citizen in Party/Appellant neither made frivolous or non frivolous argument.

Rule 11 (c)(1)(a):

"Describe the specific conduct alleged to be violated"

Rule 11 (c)(b):

"On Courts Initiative, the court may enter an order describing the specific conduct that appears to be violated."

Rule 22 (c)(2)(a):

"Monetary sanctions may not be awarded against a represented party for a violation of subdivision (b)(2)."

Rule 11 (c)(3):

"Order. when imposing sanctions, the court shall describe the conduct determined to constitute a violation of this rule and explain the basis for the sanction imposed."

The Appellee's Attorneys, Pamela C. Berry and Teresa E.

McLaughlin sanctions request dated January 14, 1998, is nothing but lies, fraud and extortion against the Citizen in Party/Appellant Edward Lesoon. Their corrupt intentions are to deny and deprive Citizen in Party/Appellant Due Process of Law under the 1st, 7th and 14th Amendments of the Constitution of the United States of America.

Citizen in Party/Appellant did not file a frivolous Appeal, since the Citizen in Party/Appellant has the right to Due Process, Petition the Appellee for redress of grievances, and in accordance to all required procedures of the Internal Revenue Code of 1954 to sue for a refund of illegally extorted funds. *Citizen in Party/Appellant still believes and asserts that our system of taxation is voluntary.* This is totally in accordance to the Supreme Court of the United States. See:

1) Flora V. United States of America, 362 U.S. 145, 176.
2) Bothke V. Terry, 713.F2d 1405
3) Laing V. United States of America 96 S. Ct. 473
4) Bothke V. Fluor Engineers, 713 F2d 1405
5) Cheek V. United States of America 111 S. Ct. 604
6) United States of America V. Benson 941 F2d 598

Further note that Citizen in Party/Appellant by all means:

1) Did not file a frivolous appeal by way of fraud
2) The Complaint is not a tax-protesters type
3) Did not and have not any alleged Income Tax Liability
4) Did not violate any legal know duty.

Citizen in Party/Appellant Request Appellee and their Attorneys to: As a matter of law, cite to Citizen in Party/Appellant the statute that makes Citizen in Party/Appellant liable to pay income tax based on a return, and cite to Citizen in Party/Appellant its "Legislative Implementing Regulations." The collection of $7623.40 was in fact collected recklessly and in unauthorized violation of Congressional Mandated Procedure and under Internal Revenue Code Section 7433.

Citizen in Party/Appellant further demands that the Appellees' Attorneys stick to the immediate issue, and that is the reckless collection for the year 1991, and nothing else.

Therefore the sanctions request dated january 14, 1998 is in perpetration of nothing but lies, corruption, fraud, extortion, conspiracy and illegal theft. Since Citizen in Party/Appellant did not violate any legal known duty, nor is or ever was Citizen in Party/Appellant liable for any alleged Income Tax. "A 'willful' violation requires ' a voluntary, intention violation of a known legal duty'". Id. 111 S. Ct. at 610 (citing *United States V. Pomponio*, 429 U.S. 10, 12, 97 St. Ct 22, 23 50 L.Ed 2d 12 (1976) (per curiam)). To prove a willful violation, therefore, the government must show: that the law imposed a duty on the defendant, the defendant knew of the duty, and that he voluntarily and intentionally violated that duty."

Therefore I hereby charge the Appellee and their Attorneys, Pamela C. Berry and Teresa E. McLaughlin in violation of:

1) Title 42 United States Code 1986 for the Knowledge of the Law

2) Neglectful of their Knowledge of the Law-Federal Rules of Civil Procedure 10 A

3) Title 18 United States Code 1342 Mail Fraud in the extortion of money for sanctions.

This is the Appellee and their Attorneys will of intent to deny Citizen in Party/Appellant Constitutional Rights and to illegally attempt to extort sanction money.

Citizen in Party/Appellant did not violate any legal known duty, or existing law that pertains to the illegally alleged charges. Therefore Citizen in Party/Appellant respectfully requests this Honorable Appeal Court to Deny and Dismiss the Appellee's Sanction Request of January 14, 1998, for illegal fabrication of lies, fraud, conspiracy, extortion and theft, perpetrated in a Gestapo Fashion.

Respectfully Submitted,

Edward Lesoon
P.O. Box 3427
Alpine, Wyoming 83128

IN THE UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

EDWARD LESOON Citizen in Party/Appellant	No. 97-8105
V.	DIST/AG DOCKET 97-015-D
UNITED STATES OF AMERICA Appellee	

DECLARATION

I, Edward Lesoon, Citizen in Party/Appellant, a natural person with Constitutional Rights, and a natural person in litigation, in natural person form and a human being. In this capacity it is my responsibility in handling this case, No. 97-8105, under Title 4 United States Code 1 Flag. The facts set forth in the accompanying motion to dismiss Appellee's illegal Sanction Request, and information are true to the best of my knowledge.

/s/Edward Lesoon
Citizen in Party/Appellant

January 26, 1998

/s/
Katherine Wright
Notary Public

Notary Stamp

CERTIFICATE OF MAILING

I, the undersigned, hereby certify that I mailed a copy of Notice to the following on this 26th day of January, 1998 by certified U.S. Mail at Afton, Wyoming 83110

To:
Pamela C. Berry
Attorney/Dept. Of Justice
Appellate Section
P.O. Box 502
Washington, D.C. 20044

Teresa E. McLaughlin
Appellate Section
Attorney/Dept. Of Justice
P.O. Box 502
Washington, D.C. 20044

United States Court of Appeals
For the Tenth Circuit
Office of the Clerk
Byron White United States Courthouse
1823 Stout Street
Denver, Colorado 80257

United States Attorney
David D. Freudenthal
Esquire
For the District of Wyoming
2120 Capital Ave. Room 4002
P.O. Box 668
Cheyenne, Wyoming 82001

Appellant/Citizen in Party,

/s/Edward Lesoon
Appellant/Citizen in Party
Edward Lesoon
P.O. Box 3427
Alpine, Wyoming 83128
January 26, 1998

/s/
Katherine Wright
Notary Public

Notary Stamp

Internal Revenue Service

Director
Internal Revenue
Service Center
Western Region
Ogden, Utah

Department of Treasury
801-620-4751
P.O. Box 9941
Ogden, Utah 84409

M/S 7000
Control No. JP971101
June 24, 1997

Ed Lesoon
P.O. Box 3427
Alpine, WY 83128

Dear Mr. Lesoon:

This is in response to your requests dated May 20, 1997.

As of this date there have been no assessments made on tax years 1991 and 1992. Therefore there are no documents that would be responsive to your request.

This completes all action on your request by this office.

Sincerely,

/s/
Joe Page
Disclosure Specialist

Enclosure

Internal Revenue Service

Director
Internal Revenue
Service Center
Western Region
Ogden, Utah

Department of Treasury
801-620-4751
P.O. Box 9941
Ogden, Utah 84409

M/S 7000
Control No. JP971301
June 25, 1997

Ed Lesoon
P.O. Box 3427
Alpine, WY 83128

Dear Mr. Lesoon:

This is in response to your Freedom of Information Act request dated June 11, 1997, and received in this office June 19, 1997.

We found no record which pertains to you on the Non Master File for the tax years 1991, 1992 or 1993.

This completes all action of your request by this office.

Sincerely,

/s/
Rodney J Strickland
Disclosure Officer

Enclosure
Notice 393

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

EDWARD LESOON)
)
Plaintiff,)
)
VS.) CIVIL NO. 97-CV-0015-D
)
UNITED STATES OF)
AMERICA,)
)
Defendant)

TRANSCRIPT OF HEARING ON DEFENDANT'S MOTION TO DISMISS

PROCEEDINGS had before the Honorable William F. Downes, United States District Judge for the District of Wyoming, on the 4th day of September, 1997, at the United States District Courthouse, Casper, Wyoming.

APPEARANCES:

For Plaintiff:

Edward Lesoon
Pro Se
P.O. Box 3427
Alpine, WY 83128

Also Present:

Joween Rickenbach

For Defendant:

David Kubichek
Assistant U.S. Attorney
United States Courthouse
111 S. Wolcott
Casper, WY 82601

Court Reporter:

Jamie L. Hendich, CSR, RPR, CRR
United States Courthouse
111 S. Wolcott, Room 217
Casper, WY 82601
(307) 265-5280

THE COURT: Please be seated. Good afternoon. Court is in session in Case 97-CV-0015-D -- is it Lesoon, sir?

MR. LESOON: Yes, Your Honor.

THE COURT: -- Edward Lesōon, plaintiff, versus United States of America, defendant.

The Court has allotted 30 minutes for oral argument on the defendant's motion to dismissal The movant, Mr. Kubichek, you can reserve up to five minutes for rebuttal since you have the burden here, and the clerk will advise both parties when there's three minutes remaining on their principal arguments.

All right, Mr. Kubichek.

MR. KUBICKEK: May it please the Court.

THE COURT: Counsel.

MR. KUBICHECK: Your Honor, I am here today standing in for my colleagues in the tax division of the Department of Justice relative to this case. We filed a motion to dismiss the plaintiff's action, raising a number of -- of jurisdictional grounds and in addition to that argument to the effect that the plaintiff has failed to state a claim for which relief can be granted by the Court.

As the Court knows, the defendant -- or the plaintiff originally filed this action in Lincoln -- or Sublette County District Court in Wyoming on December 23rd, 1996, alleging that the Internal Revenue Service's assessment of income taxes against him for tax year 1991 was unlawful and that the subsequent levy against a IRA account of his was likewise unlawful primarily by virtue of the fact that the original assessment in his judgment was unlawful.

And the government filed its motion to dismiss as I said, and part of my unhappy task today is take some of that back, Your Honor, and then in addition to that raise a jurisdictional issue that was not raised in the government's motion to dismiss.

First let me take back the argument that suggests that this Court's attending to this lawsuit is barred under the principles of sovereign immunity by virtue of there not having been an appropriate waiver. We made that argument at page 5 of our brief.

In reviewing this morning the defendant's -- or the plaintiff's -- and I'm sorry to keep referring to him as the defendant, Your Honor -- the plaintiff's papers and reviewing the applicable law, it seems to me that he does allege a claim for refund in -- in his complaint.

He does, in some of the papers that I have seen, indicate that he in fact did file an administrative claim with the Internal Revenue Service to have the 7,000 plus the IRS levied returned to him, and there was in fact a denial, and that suit was filed in district court, albeit the wrong court, within the applicable time period. So to the extent we argued that this case cannot be here on the grounds of sovereign immunity as we did in our memorandum in support of our motion to dismiss, that argument is not well taken.

However, we did not but should have argued that this Court lacks subject matter jurisdiction by virtue of Section 6512 of the Internal Revenue Code and by virtue of the plaintiff's having previously gone to the U.S. Tax Court to contest his tax liability with respect to tax year 1991.

I provided Mr. Lesoon a copy of this, Your Honor, but I'll hand it on to your clerk. It's a copy of the tax court's ultimate decision denying Mr. Lesoon's petition relative to tax year 1991; and in addition to that are attached three cases that I found this morning in doing research in connection with this argument, and -- and the gist of those three cases is simply that Section 6512 (a) of the Internal Revenue Code, Title 26, imposes a jurisdictional bar to the exercise of any jurisdiction by the -- by the district court over a tax case whenever a taxpayer has filed a petition with the tax court.

And as Mr. Lesoon indicates even in -- at various places in his complaint, he in fact did that, and the tax court ultimately denied his claim and affirmed the Internal Revenue's -- Services's assessment for tax year 1991. Having done that, 6512 -- and the cases that I provided Your Honor construe it in accordance with its language -- provides a jurisdictional bar to this Court exercising any jurisdiction whatsoever with respect to the propriety of th Internal Revenue Service's assessment against this plaintiff for the tax year.

So to the extent that his claim in his complaint is for this Court to review the IRS assessment of taxes for that tax year, this

Court is simply without subject matter jurisdiction. I apologize to the Court that my colleagues in Washington chose not to raise that argument in our motion to dismiss. I am bewildered as to why they did not.

But as this Court well know, matters of subject matter jurisdiction may and in fact should be brought as -- as soon as they are apparent, and this one became apparent to me this morning.

Wish respect to the plaintiff's other -- excuse me, Your Honor. (Clearing throat). With respect to the plaintiff's other claims for relief, he requests a perpetual injunction against the Internal Revenue Service from ever bothering him again.

Your Honor, he is a -- he is a -- a person who is, presumably by virtue of this case, subject to the laws of the United States, and part of those laws are the Internal Revenue Service's obligations to collect taxes when due under the Internal Revenue Code for income taxes or any other kinds of taxes. And under the Anti-injunction Act, of course this Court has virtually no -- I don't want to say no -- virtually no authority to issue injunctions against the Internal Revenue Service is in fact proposing to undertake some action.

Now, the plaintiff here has not indicated any particular action that he seeks to enjoin other than he seeks to enjoin the IRS from ever again darkening his door for purposes of collecting income taxes or specifically any other kind of taxes. And of course -- and assuming the /court had some authority to issue injunctions against the IRS, a perpetual injunction against the IRS would not satisfy the ordinary requirements for equitable relief.

THE COURT: If I could issue a perpetual injunction against the IRS, I'd be the most popular fell in Wyoming.

MR. KUBICHEK: And I'd be first in line, Your Honor, but -- so -- so we can't do that. You can't issue a perpetual injunction or a perpetual cease and desist order for herein and forever after. You can't order, as the plaintiff seeks, that the IRS forever cease and desist any and all liens, levies, deficiencies and all other means of converting plaintiff's property or funds, and we don't have a case here on anything other than the money that the IRS already took.. So these -- these future oriented permanent injunctions are simply not within this Court's jurisdiction and not within the equitable requirements for injunctive relief even assuming the Court had jurisdiction.

As I said, with respect to the tax liability issues that are before the Court and would properly be before the Court, I think the fact of the plaintiff's already having gone to the tax court forecloses this Court from considering those issues.

And the only other matter that is raised by the plaintiff's complaint is his claim for a million dollars in punitive damages under the Taxpayer Bill of Rights Act. In order to collect -- in order to have an action under that provision, the plaintiff must show that the -- must show facts in his complaint that the IRS in fact acted recklessly or intentionally to illegally collect a collectible tax.

And I submit, Your Honor, that -- that the plaintiff simply doesn't satisfy that burden in this case, and he doesn't show that any of the actions and actually collecting the tax after the tax court ruled violated any provision of the Internal Revenue Code. So he has not made out a case under that provision as of this time. And he's asking for punitive damages, and I don't believe that provision provides for punitive damages. So of all of those reasons, Your Honor, I would submit that the plaintiff's complaint ought to be dismissed. It did occur to me as I was reading this -- and the Court will remember this -- that the case started out in district court and was removed to federal district court.

Now, of course when I was in law school, the case would have separately been dismissible on the basis that since the state district court didn't have jurisdiction and the federal court's jurisdiction under any possible theory. But I think that peculiar limitation on this Court's jurisdiction on removal is no longer with us. So I'm not going to make that argument. Thank you.

THE COURT: Thank you, counsel. You want to reserve the balance of your time for rebuttal?

MR. KUBICHEK: Sure, Your Honor.

THE COURT: How much time does the United States have remaining?

THE CLERK: Four minutes, Your Honor.

THE COURT: Mr. Lesoon, you have 15 minutes, sir.

MR. LESOON: Thank you, Your Honor. Good afternoon, sir; ladies and gentlemen; defense attorney.

Your Honor, I'm here at this time to defend myself as a citizen and party, sir. I'm here at this time under the United States flag, Title 4, U.S.C. 1 Flag, sir, which witness, do you concur?

MRS. JOWEEN RICKENBACH: I concur.

MR. LESOON: Therefore, Your Honor, with all due respect, this happens to be a common law court, and therefore I ask this witness if he concurs.

MRS. JOWEEN RICKENBACH: I concur.

THE COURT: I -- I don't --

MR. LESOON: Thank you, sir.

THE COURT: Who is -- who is this witness that you're talking about?

MR. LESOON: This is the witness, Your Honor.

MR. KUBICHEK: He should identify her then.

THE COURT: Yes. We need -- the record needs to be clear.

Who are you, ma'am? Would you state your full name please.

MR. LESOON: Would you state your name for the record.

MRS. JOWEEN RICKENBACH: I'm Joween Rickenbach.

THE COURT: All right. Thank you.

MR. LESOON: This is a common law hearing in the common law court under the Article I, Section 9, of the United States Constitution. All esquires at this time please leave.

I now reserve all my constitutional right under the United States Constitution and Rule 38 of the Federal Rules of Civil Procedure. I am a natural person with a constitutional right and representing myself in my private capacity as a citizen and party. The Title United States 1 Flag under Army Regulation, Your Honor, 840-10, Chapter 2-1, it says that the United States flag has jurisdiction all -- over all foreign flags. It is the superior flag of the

United States. And under Regulation 2-6 U.S. Flag, it is held above all foreign flags in the United States. Then flags of the president comes and the flags of the state of course.

I have jurisdiction with my Title 4 U.S.C. 1 Flag in this court of law. And this is a common law federal court. I have the constitutional right of trial under jury under the Fourth, fifth, seventh and fourteenth Amendment, Your Honor. And under the UCC 3-501, Your Honor, pursuant to Title 42, U.S.C. 1986, for knowledge of the law, and under Federal Rules of Civil Procedure 60(b) and 38(a) say that I am entitled to a common law jury trial and freedom of speech and to make my wants known under constitutional protection.

My case is under Title 4 U.S.C. 1 Flag, the American flag of the United States Constitution. And under presidential executive order, Your Honor, 10-834 (pronounced ten, eight, three, four) no title of nobility under any foreign flag can have any jurisdiction and in breach of Article 1, Section 9, of the United States Constitution will be allowed in jurisdiction of this case. A breach of this order will cause sanctions under Federal Rules of Civil Procedure 16(f).

When the Constitution of United States of America is surrendered to a foreign power to cause a breach of contract of oath and affirmation to the United States Constitution, then charges of perjury of oath, constructive treason, contempt of the United States Constitution and false swearing will be brought against officers of the court responsible.

The Internal Revenue Service, Your Honor, violated my constitutional rights and congressional procedures by their extortion of my money in the amount of 7623.40. This is -- this is fraud, theft, corrupt, illegal and conspiracy, Your Honor.

THE COURT: The tax court didn't agree with you.

MR. LESOON: Excuse me, Your Honor. I do understand that. However, the tax court would not even listen to me, Your Honor; did not give me the -- they did not give me the time of day, Your Honor.

Therefore, I request that this case not be dismissed, Your Honor, and request, with all honor, due process of law under the

United States Constitution and under Title 4 U.S.C. 1 Flag and under the Fourth, Fifth and Seventeenth Amendment of the United States Constitution, Your Honor.

And Your Honor I request, therefore, that the defendant attorney to show me specifically in this particular code that he had mentioned to you previously where I am liable as he has stated to pay such a tax under the Extortion Act of the Internal Revenue Service, sir.

Therefore, Your Honor, I pray that you allow this court session to go through and the hearing and not dismiss this particular action requested by the defendant. Thank you, Your Honor.

THE COURT: Do you recognize that I have jurisdiction only over matter that the law permits me to have jurisdiction over, sir?

MR. LESOON: Yes, sir. I have -- I have -- understand that fully. However, this is a common law hearing at this point in time, and you have that particular jurisdiction reversed from the defendant to have such a -- a dismissal revoked, Your Honor, because of common law under the Constitution, the Fourteenth Amendment and the Fourth and the Fifth Amendment, sir.

THE COURT: I took an oath in this room in the presence of this flag to support and defend the Constitution Of the United States against all its enemies, foreign and domestic, and to obey all the laws made in pursuance thereof, all the laws promulgated by congress. Now, I have to tell you, sir, there are about every -- about once a week I obey and enforce a law with which I do not agree; but if I start doing my own thing because someone gave me a black robe, then we'd have chaos in this country, wouldn't we?

MR. LESOON: Yes, sir. I agree with you, sir, and I'm not asking you to do or -- or requesting the Court to do anything that is not within the law. My constitution -- constitutional rights, Your Honor, should be considered as well which they have not by the defendant at any point in time.

THE COURT: Read the portion of the constitution to which you're relying on sir.

MR. LESOON: I am relying on the Fourth and Fifth

Amendment, Fourteenth Amendment, the Four- -- and Seventh Amendment, Your Honor.

THE COURT: Those are the amendments you're relying upon?

MR. LESOON: Yes, sir. The -- the Fourth Amendment, sir, Your Honor, the right of the people to be secure in their person, houses, papers and effects against unreasonable searches and seizures shall not be valida- -- vali- -- (clearing throat) excuse me -- violated, and no warrant shall issue but upon probable cause supported by oath and affirmation and particularly describing the place of search and persons -- and seizures of the person which they did not do when they confiscated the money. They did not follow any congressional procedures whatsoever, Your Honor.

THE COURT: You don't recognize the Internal Revenue Code as a procedure passed by congress?

MR. LESOON: It does not say anywhere in the Internal Revenue Service, sir, that they can do this without the proper procedures. They have to follow the proper procedures is what I'm saying, Your Honor.

THE COURT: And what procedures of the Internal Revenue Code do you contend that the Internal Revenue Service violated?

MR. LESOON: They violated every procedure from A to Z, beginning with the seizure, sir, which they did not issue whatsoever a seizure notice to me and no levy in order to make the seizure which is required by law in the Internal Revenue Code. They just went in and took the money, Your Honor, without any regards to my rights or congressional procedure. That was a violation.

I am not saying they could not take the money. All I am saying is they needed to follow the procedures of the Internal Revenue Code as I am expected to do so; and it there is a procedure that I didn't follow, I want to know. And I want to know where it is I'm liable to pay this tax. Show me right here, Your Honor. I have the code right here, 1996 code.

Your Honor, under the Fifth Amendment there shall be -- nor be -- I shall not be deprived of life, liberty or property without process -- process of law, nor shall private property be taken for public use without just compensation. They didn't do that, Your Honor. I didn't get the proper things I'm supposed to get according to the congressional code.

The Seventh Amendment, Your Honor, the Seventh Amendment states: In suits of common law where the value of controversy shall exceed $20, the right of trial by jury shall be preserved, and no fact tried by jury shall be otherwise reexamined in any court of the United States than according to the rules of the common law. And I have the right to have that jury and be heard.

The Fourteenth Amendment, Your Honor, it states: Nor shall any state deprive any person of life, liberty or property without due process of law, nor deny to any person within the jurisdiction of equal protection of the law. And that is all I'm asking, Your Honor.

If I am liable, I pay. I have already paid. The -- they extorted the money. I mean, there's no question about that. But they extorted under illegal provisions, Your Honor, and that is the reason I am asking for this Court to consider my suit. That is the reason I'm pleading with this Court not to dismiss this particular case and let it go through.

An I have pointed out to the defendant the illegal action that has been taken on paper after paper after, paper, Your Honor, with no response whatsoever, Your Honor, whatsoever, no rebuttal, nor response. And therefore I request this Honorable Court to allow the jury and the court to proceed with my trial request. Thank you, Your Honor.

THE COURT: All right, sir. Thank you.

United States?

MR. KUBICHEK: Your Honor, the one -- I think the one point that -- that the plaintiff raised that I suppose requires some response is the procedural issue. Now, I -- he doesn't allege in his complaint what it is that the Internal Revenue Service did in -- in seizing the $7300 that violated the Internal Revenue Code.

MR. LESOON: Objection, Your Honor.

THE COURT: Well, I -- if --

MR. KUBICHEK: It's a matter of record in the complaint. Either you did or you didn't. And -- and if the judge thinks you did, then he'll -- he'll figure it out, but I'm not testifying.

THE COURT: I'll -- I'll look at the -- the documents, sir; but I need to hear the United States out. Since it's their burden on this motion, he always gets the last word.

MR. LESOON: Thank you, Your Honor.

MR. KUBICHEK: At least I can't tell reading the complaint what it is -- the procedural steps that the IRS didn't take that it should have taken in levying on the Shearson-Lehman Brothers account that is the subject of this.

THE COURT: Mr. Lesoon says it was done without following any procedure that's recognized in the Internal Revenue Code, and he challenges you to point out where the Internal Service acted appropriately.

MR. KUBICHEK: And -- and if he had a claim to that effect -- which I don't see in his complaint. Maybe he does; I don't see it -- that might be an issue, although he doesn't -- he indicated in his argument that he wasn't contesting the 7300 - dollar figure but it was the procedures.

And I -- and of course he doesn't have jurisdiction to contest here or anywhere else at this point the assessment or his tax liability. And -- and I don't know what the remedy would be if -- if the money was appropriately -- if the money is assessed pursuant to the tax court decision and that was the amount that was due and owing pursuant to that final and, at this point, unreviewable judgement, I don;t know what the remedy is. I suppose the Court could order us to give the money back, but then he'd have to give it back because that wouldn't change his underlying tax liability.

It might have something to do with his Taxpayer Bill of Rights claim, although I'm not sure how. So I'm not sure what that argument at this point matters whereas if we were looking at something prospectively obviously it would matter a great deal.

I suppose that if the Court -- because I think the documents in front of the Court right now would establish one way or the other whether the IRS followed the appropriate procedures. We -- we assert in our motion that we did. Mr. Lesoon asserts today, if he doesn't assert in his complaint, that we didn't.

An alternative here might be to require Mr. Lesoon to file some kind of a -- of a more definite statement that might take the place of his complaint or file an amended complaint limited to his specific assertion with respect to why we didn't file or how -- how it is that we didn't follow the appropriate procedures, and then the United States would have a chance to file a response and probably a motion for summary judgment document on how we got there.

As I said I'm not sure, since the United States has the money since Mr. Lesoon is not talking -- at least he said he's not talking about the amount of 7300 so much as the procedures we used to get it, what matter that would be. But that might be the appropriate alternative at this point.

As I said I'm not -- assuming those jurisdictional arguments can be overcome, and I'm not sure how that tracks with the fact that you really can't -- you have no jurisdiction to consider anything having to do with assessments itself. And I don't know what jurisdiction the Court would have to order the IRS to give the money back since you have no jurisdiction over a refund suit.

THE COURT: Anything else?

MR. KUBICHECK: No.

THE COURT: Mr. Lesoon, the special trial judge in the tax court issued an order which was entered in March; March 21, 1994. Among other things the judge's order said that you were invited to file an amended petition which according to the Court you declined to do. I'm paraphrasing now from this order.

It said that in lieu of appearing, quote, petitioner filed with the Court of March 14, 1994, a motion of change place of hearing which the Court earlier denied at the hearing as well as several statements pursuant to Rule 50(c), close quote.

MR. LESOON: Excuse me, Your Honor.

THE COURT: It says that you didn't respond and that you were not present at the hearing given to you by the tax court. What's your comment about that?

MR. LESOON: My comment about that, Your Honor --

thank you for asking me. My comment is when I filed a petition with the -- when I filed a petition with the -- with the tax, court, Your honor, the petition was filed to be designated in Pocatello, Idaho, Your Honor.

Upon no notification whatsoever from the tax court and under the defendant's assumably instruction, that particular designation was reversed to Washington, D.C. Your Honor. Under the burden of cost, how could I attend such a meeting? And I have expressed such a letter and motion to the Court designating these facts.

And to further go back to the defendant's allegation that I did not say what these procedure was in my complaint, Your Honor, if you notice my complaint, page 3, in Paragraph O, states all the allegations that he indicated was not made as far as their violation of procedures of the Internal Revenue Service.

THE COURT: The United States Attorney seems to concede that this Court would have had subject matter jurisdiction had you come to see me first instead of going to the tax court. But he says because you chose to go to tax court, this Court doesn't have subject matter jurisdiction. Although he had to confess that his colleagues in the tax division in Washington should have but did not raise that issue in its motion to dismiss, nevertheless he points out that I have an obligation to consider it at any time it becomes apparent to the Court.

MR. LESOON: But, Your Honor, I had to go to the court. If I did not go to the tax court as prescribed by Section 5214 of the Internal Revenue Code, they're gonna seize everything I got and perhaps even put me in jail. So what -- what other remedies is there for a person if you don't file with the tax court and have to come to the federal court first? What remedy has (sic) a citizen have, Your Honor?

The procedure says it has to be filed through the tax court, and I did exactly what the procedure said, your Honor. I followed every procedure as required by me as far -- as well as filing for a refund, Your Honor, within a timely manner.

THE COURT: Why didn't you file an amended petition as the judge of the tax court --

MR. LESOON: I did file an amended petition, Your Honor, when they have contacted me. I filed all motions, all petitions, Your Honor.

THE COURT: It said -- it says on page 2 of the order, quote, petitioner did not comply with the Court's order to file an amended petition. Rather petitioner filed several statements pursuant to Rule 50(c) that at best expound upon the meritless arguments made in the petition, close quote.

MR. LESOON: That only goes to show, Your Honor, I did file even that as well. How could I -- Your Honor, how could I defend myself in Washington, D.C., when I have committed myself on the designated order that I would defend myself and do what needed to be done according to law and procedure -- and I'm not here to break the law or violate the law -- and they reverse it to Washington, D.C., from Pocatello, Idaho? That is a violation.

THE COURT: Did you seek assistance from someone trained in the law to help you in that problem?

MR. LESOON: Sir, I have studied the law. I have inquired assistance, and I have got opinions in regards to this situation. And as costly as this situation has been, Your Honor, how -- how could I even further go with -- with getting any further assistance from a private attorney?

THE COURT: All right, sir.

MR. LESOON: Thank you, Your Honor.

THE COURT: Those folks in Washington could have done a better job, Mr. Kubichek.

MR. KUBICHEK: Yes, they could have, Your Honor.

THE COURT: Aren't they paid well enough back there in Washington, D.C.? All right, gentlemen. I'll take this matter under advisement, and I'll issue a ruling in writing in due course. I'll attempt to have a ruling issued within the next 30 days. All right. Court is in recess.

THE CLERK: All rise. Court will stand in recess.

(END OF PROCEEDINGS)

* * * * * * *

REPORTER CERTIFICATE

I, **JAMIE L. HENDIRCH**, Official Court Reporter in the United States District Court for the District of Wyoming, appoint pursuant to the provisions of Title 28, United States Code, Section 753, do hereby certify that the foregoing is a true and correct transcript of the proceedings had in the within entitled and numbered cause on the date hereinbefore set forth.

/s/
JAMIE L. HENDRICH, CSR, RPR, CRR
Federal Court Reporter

U.S. DEPARTMENT OF JUSTICE
TAX DIVISION

Please reply to: Appellate Section
P.O. Box 502
Washington, D.C.
20044

Facsimile No. (202) 514-8456
Telephone No. (202) 514-3361

PCBERRY
5-57-1019
CMN 9754382

November 24, 1997

Patrick Fisher, Esquire
Clerk, U.S. Court of Appeals
for the Tenth Circuit
Byron White United States Courthouse
1823 Stout Street
Denver, CO 80257

Rd: Edward Lesoon v. United States of America
(10th Cir. - No. 97-8105

Dear Mr. Fisher:

We are enclosing the original and three copies of a motion (and declaration in support thereof) for a 30-day extension of time from December 15, 1997, to and including January 14, 1998, in which to file the Government's brief in the above-entitled case. As indicated by the certificate of service, I am mailing a copy of this motion to the appellant, who is appearing pro se. If you have any questions, please contact me at (202) 514-2988.

Sincerely yours,

/s/
Pamela C. Berry

PAMELA C. BERRY
Attorney
Appellate Section

Enclosures

cc: Mr. Edward Lesoon
P.O. Box 3427
Alpine, Wyoming 83128

IN THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

EDWARD LESOON,

Plaintiff-Appellant

v. No. 97-8105

UNITED STATES OF AMERICA,

Defendant-Appellee

APPELLEE'S MOTION FOR AN EXTENSION OF TIME IN WHICH TO FILE ITS BRIEF

The United States of America, appellee herein, by and through its counsel, Pamela C. Berry, respectfully moves this Court for an extension of 30 days, to and including January 14, 1998, within which to file and serve its brief in the above-captioned case, for the reasons hereinafter set forth:

1. Appellee's brief is currently due on December 15, 1997, and no prior extensions of time have been sought by the United States respecting this appeal.

2. I will not be able to turn my full attention to the preparation of Appellee's brief in this case until I complete work on the answering brief of the Commissioner of Internal Revenue in Transpac Drilling Venture v. Commissioner (2d Cir. - No. 95-4177 (L), 95-4179 (CON)), a consolidated appeal involving appeals taken with respect to nine decisions of the Tax Court. The Commissioner's brief is due to be filed (on extension) on December 24, 1997. I began work on the Commissioner's brief in Transpac prior to receiving Appellant's brief in this case.

3. Our office is scheduled to move to a new building on

December 13 and 14, 1997. As a result of this move, I will have to spend several days during December packing and unpacking the material in my office.

4. I did not participate in the proceedings in this case before the District Court, and thus have no previous familiarity with the record or issues presented.

5. In addition to being out of the office for the Christmas and New Years holidays, I plan to be out of the office on December 26, 1997, and December 29, 1997.

6. Due to the above circumstances, the additional time requested is unavoidably required to enable me to prepare a draft of the Government's brief and thereafter to have the brief reviewed by a supervisory attorney and filed with the Court.

WHEREFORE, it is respectfully requested that the time for filing and serving the Government's brief be extended for 30 days, to and including January 14, 1998.

/s/
PAMELA C. BERRY
Tax Division
Department of Justice
Post Office Box 502
Washington, D.C. 20044
(202) 514-2988
Counsel for the United States

Dated: This 24th day of November, 1997.

IN THE UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

EDWARD LESOON,)
)
Plaintiff-Appellant)
)
v.) No. 97-8105
)
UNITED STATES OF)
AMERICA,)
)
Defendant-Appellee)

DECLARATION

PAMELA C. BERRY, of the Department of Justice, Washington, D.C., states as follows:

1. I am the attorney employed in the Appellate Section, Tax Division, Department of Justice, to whom this case has been assigned; and

2. The facts set forth in the accompanying motion are true to the best of my knowledge and belief.

I declare under penalty of perjury, pursuant to 28 U.S.C. Section 1746, that the foregoing is true and correct. Executed on this 24th day of November, 1997, at Washington, D.C.

/s/
PAMELA C. BERRY
Attorney

CERTIFICATE OF SERVICE

It is hereby certified that service of the foregoing motion has been made on the Appellant, who is appearing pro se, on this 24th day of November 1997, by mailing a copy thereof in an envelope to him, properly addressed as follows:

Mr. Edward Lesoon
P.O. Box 3427
Alpine, Wyoming 83128

/s/
PAMELA C. BERRY
Attorney

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

JANUARY 24 1996

This is in response to your January 4, 1996, letter asking how you can tell what category a particular regulation falls.

Regulations are authorized by Internal Revenue Code section 7805. They constitute the primary source for guidance on the Treasury's position regarding the interpretation of the Code. Regulations have, generally, been classified into three broad categories: legislative, interpretative, and procedural.

Legislative regulations are those for which the Service is specifically authorized by the Code to Prescribe the operating rules. Generally, legislative regulations have the force and effect of law unless the regulation exceeds the scope of the delegated power, is contrary to the statute, or is unreasonable.

Interpretative regulations explain the Service's position on the various sections of the Code. Although interpretative regulations do not have the force and effect of law, the courts customarily accord them substantial weight.

Procedural regulations are considered to be directive rather than mandatory, and thus, do not have the force and effect of law. The purpose of procedural regulations is to outline both for public consumption and internal guidance those rules which control the operation of the Internal Revenue Service in carrying out its prime function of administering and enforcing the Internal Revenue laws.

I hope that this information will be helpful to you.

Sincerely,

/s/
Cheryl Kordick, Chief
Assistance Section

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

This is in response to your February 15, 1996, follow-up letter asking how a citizen is supposed to know the difference between the three broad categories of regulations.

The difference between the three broad categories of regulations ar evidence from the descriptions given in our previous letter of January 24, 1996. If a section of the Internal Revenue Code specifically authorize that the Secretary of the Treasury shall prescribe such regulations as may be appropriate to carry out the purpose of that section of the Code, the regulations are considered to be legislative. (For example, see section 163 (j)(7) of the Code).

If the regulations contain the Service's interpretation of the various sections of the Code, and serve to guide the personnel of the Service as well as the taxpaying public in the application of the law, they are interpretative.

If the regulations do not fall into the legislative or interpretative categories, the regulations are procedural.

I hope that this information will be helpful to you.

Sincerely,

/s/
Cheryl Kordic, Chief
Assistance Section
Customer Services Branch

LEGISLATIVE IMPLEMENTING REGULATIONS

Are required and are found under the following:

1. The Privacy Act Notice.
2. California Bankers vs. Schultz 416 U.S. 21
3. Dodd vs. the U.S. 223F. Supp. 785
4. Parallel Table of Authorities
5. C.F.R. 26 301.7805
6. I.R.C. Section 7805 (a)(b)
7. I.R.C. Section 6011, 6001, 6012
8. Dept. Of Treasury Organization and Function 1110
9. I.R.S. Procedures, P. 6-20
10. U.S. Supreme Court in U.S. vs. Merskye, 361. U.S. 438
11. Title 44 - Section 1505 to 1510

DEPARTMENT OF THE TREASURY
Internal Revenue Service
ORGANIZATION AND FUNCTIONS

This material supersedes the statements on organization and functions published at 37 FR 20961-20990, 38 FR 23341 and 23342, and38 FR 30011 and 30012.

Dated: March 25, 1974.

[SEAL] DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

1100 ORGANIZATION AND STAFFING

1110 ORGANIZATION AND FUNCTIONS OF THE INTERNAL REVENUE SERVICE

SEC. 1111 *Establishment of the Internal Revenue Service*

SEC. 1111.1 *Mission.*

The mission of the Service is to encourage and achieve the highest possible degree of voluntary compliance with the tax laws **and regulations** and to maintain the highest degree of public confidence in the integrity and efficiency of the Service. This includes communicating the requirements of the law to the public, determining the extent of compliance and causes of non-compliance, and doing all things needful to a proper enforcement of the law.

FEDERAL REGISTER, VOL. 39, NO. 62 -
FRIDAY, MARCH 29, 1974

Privacy Act and Paperwork Reduction Act Notice

The Privacy Act of 1974 and Paperwork Reduction Act of 1980 say that when we ask you for information, we must first tell you our legal right to ask for the information, why we are asking for it, and how it will be used. We must also tell you what could happen if we do not receive it and whether your response is **voluntary**, required to obtain a benefit, or mandatory under the law.

This notice applies to all papers you file with us, including this tax return. It also applies to any questions we need to ask you so we can complete, correct, or process your return; figure your tax; and collect tax, interest, or penalties.

Our legal right to ask for information is Internal Revenue Code sections 6001, 6011, and 6012(a) **and their regulations**. They say that you must file a return or statement with us for any tax you are liable for. Your response is mandatory under these sections. Code section 6109 and its regulations say that you must show your social security number on what you file. This is so we know who you are, and can process your return and papers. You must fill in all parts of the tax form that apply to you. But you do not have to check the boxes for the Presidential Election Campaign Fund.

We ask for tax return information to carry out the tax laws of the United States. We need it to figure and collect the right amount of tax.

We may give the information to the Department of Justice and to other Federal agencies, as provided by law. We may also give it to cities, states, the District of Columbia, and U.S. commonwealths or possessions to carry out their tax laws. And we may give it to foreign governments because of tax treaties they have with the United States.

If you do not file a return, do not provide the information we ask for, or provide fraudulent information, the law says that you may be charged penalties and, in certain cases, you may be subject to criminal prosecution. We may also have to disallow the exemptions, exclusions, credits, deductions, or adjustments shown on the tax return. This could make the tax higher or delay any refund. Interest may also be charged.

IT'S VOLUNTARY, SAYS IRS

Here are a few examples of the wording used by the IRS in their own publications that nonetheless confirm the voluntary nature of income (excise) tax. IRS publication #21 that is widely distributed to high schools acknowledges that compliance with the law requiring the filing of a return is voluntary and at the same time suggests that the filing of a return is mandatory when it states: "*Two aspects of the Federal income tax system -- voluntary compliance with the law and self-assessment of tax -- make it important for you to understand your rights and responsibilities as a taxpayer. 'voluntary compliance' placed on the taxpayer the responsibility for filing an income tax return. You must decide whether the law requires you to file a return. If it does, you must file your return by the date it is due.*"

A Former IRS commissioner stated in a 1040 instruction booklet: "*Each year American taxpayers voluntarily file their tax returns...*" The U.S. Supreme Court also confirmed the voluntary nature of income tax in the case of US. v. Flora, 362 US 145, when it stated: "*Our system of taxation is based upon voluntary assessment and payment, not upon distrain* (force)."

HANDBOOK FOR SPECIAL AGENTS

CRIMINAL INVESTIGATION INTELLIGENCE DIVISION
INTERNAL REVENUE SERVICE

"AGENTS. . .Our Tax system is based on individual self assessment and voluntary compliance. . .the material contained in this handbook is confidential in character. it must not under any circumstance be made available to persons outside the service."

MR. MORTIMER CAPLIIN
INTERNAL REVENUE SERVICE
COMMISSIONER

Sec. 6201. Assessment authority.
(a) Authority of Secretary.

The Secretary is authorized and required to make the inquiries, determinations, and assessments of all taxes (including interest, additional amounts, additions to the tax, and assessable penalties) imposed by this title, or accruing under any former internal revenue law, which have not been duly paid by stamp at the time and in the manner provided by law. Such authority shall extend to and include the following:

(1) Taxes shown on return. The secretary shall assess all taxes determined by the taxpayer or by the Secretary as to which returns or lists are made under this title.

Sec. 6203. Method of assessment.

The assessment shall be made by recording the liability of the taxpayer in the office of the Secretary in accordance with rules or regulations prescribed by the Secretary. Upon request of the taxpayer, the Secretary shall furnish the taxpayer a copy of the record of the assessment.

Handbook for Special Agents

363 (1-18-80)
Considerations Regarding Issuance of Summons

(1) A special agent should use his/her best efforts to obtain information voluntarily from taxpayers and witnesses. If a person is uncertain that he/she should comply with the agent's oral request, his/her consent may often be obtained by acquainting him/her with the provisions of the Internal Revenue Code as printed on the reverse side of Form 2039A.

EXHIBIT 10
Bull vs. U.S. 295 US 247

> [4] A tax is an exaction by the sovereign, and necessarily the sovereign has an enforceable claim against every one within the taxable class for the amount lawfully due from him. The statute prescribes the rule of taxation. Some machinery must be provided for applying the rule to the facts in each taxpayer's case, in order to ascertain the amount due. The chosen instrumentality for the purpose is an administrative agency whose action is called an assessment. The assessment may be a valuation of property subject to taxation, which valuation is to be multiplied by the statutory rate to ascertain the amount of tax. Or it may include the calculation and fix the amount of tax payable, and assessments of federal estate and income taxes are of this type. Once the tax is assessed, the taxpayer will owe the sovereign the amount when the date fixed by law for payment arrives. ←

*Note: Apart from everything else, No "income" tax can be "due" until the correct amount is "assessed".

General

P6-1 (Approved 11-4-77)
Service commitment to Taxpayer Service Program

The Service is committed to a Taxpayer Service Program which will help taxpayers voluntarily comply with tax laws and assist them in meeting their obligations under the tax law. The resource requirements needed to fulfill this commitment will be given the same level of consideration as requirements for other major Service Programs.

(P-6-2-- P-6--9 are reserved)

STANDARD IN PUBLIC DEALINGS AND TAX ADMINISTRATION

P-6-10 (APPROVED 11-26-79)
The public impact of clarity, consistency, and impartiality in dealing with tax problems must be given high priority.

In dealing with the taxpaying public, Service officials and employees will explain the position of the Service clearly and take action in a way that will enhance voluntary compliance. If a taxpayer problem has been caused by a Service error, the mistake will be acknowledged and an apology given to the taxpayer. Internal Revenue Service officials and employees must bear in mind that the public impact of their official actions can have an effect on respect for tax law and on voluntary compliance far beyond the limits of a particular case or issue.

P-6-11 (Approved 11-4-77) P-1-179
Administrative procedures and forms will be designed to promote voluntary compliance

Recognizing the importance of voluntary compliance on the part of taxpayers to the efficient operation of the tax system, specific attention will be given by Service officials to isolating and defining problems in tax administration which might adversely affect **voluntary compliance**.

Service officials will take positive action to critically examine the Service's forms, procedures and administrative practices and ensure they are designed to provide for sound administration of the law and effective use of resources. Simultaneously, Service officials will ensure that the effects upon taxpayers of these forms, procedures, and administrative practices are considered.

(P-6-12--P-6-19 are reserved)

TAX INFORMATION AND EDUCATION PROGRAMS

P-6-20 (Approved 11-4-77)

Information provided taxpayers on the application of the tax law.

→ The Service will develop and conduct effective programs to make available to all taxpayer comprehensive, accurate, and timely information on the requirements of tax law and regulations.

Positive efforts will be made to determine taxpayers' needs and to effectively meet these needs. Information will be provided through variety of means, including telephone and office assistance programs, mass media and taxpayer publications.

P-6-21 (Approved 11-4-77)

Educational programs provided

The Service will conduct taxpayer education programs for taxpayers whose needs for tax information are most effectively met by these means.

These educational programs will include those established to assist individuals in meeting their current and future tax obligations as well as programs designed to instruct groups, taxpayers or prospective taxpayers on the rights and responsibilities under the tax law on specific tax provisions of common interest.

Department of the Treasury
Internal Revenue Service
Catalog Number 46591Y

Publication 586A
(Rev. April 91)

THE COLLECTION PROCESS (INCOME TAX ACCOUNTS)

Enforced Collection Policy

Enforced collection action includes the filing of a Notice of Federal Tax Lien, the serving of a Notice of Levy and/or the seizure and sale of your property(personal, real and/or business). We normally take these actions only after we try to contact you and give you the opportunity to pay voluntarily.

FIGURE 1-5

INTERNAL REVENUE INVESTIGATION

HEARINGS
Before a
SUBCOMMITTEE OF THE COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES
EIGHTY-THIRD CONGRESS
FIRST SESSION
ON
ADMINISTRATION OF THE INTERNAL REVENUE LAWS

PART A

FEB. 3,4,5,6,9,10,25,26,27, MAR.2,3,4,5,6,10,11,12,13,1953

Printed for the use of the Committee on Ways and Means

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON 1953

INTERNAL REVENUE INVESTIGATION

". . .Your income tax is 100 percent voluntary tax, and your liquor tax is 100 percent enforced tax. Now, the situation is as different as day and night. . .".

Regulations that allegedly implement
26 U.S.C. 6303 "Notice and Demand"

27 CFR

NOTICE AND DEMAND

§ 70.81 Notice and demand for tax.

(a) *General rule*. Where it is not otherwise provided by provisions of 26 U.S.C. enforced and administered by the Bureau, the regional director (compliance) or the Chief, Tax Processing Center shall, after the making of an assessment of a tax pursuant to §70.71 of this part, give notice to each person liable for the unpaid tax, stating the basis for the tax due, the amount of tax, interest, additional amounts, additions to the tax and assessable penalties, and demanding payment thereof. Such notice shall be given as soon as possible and within 60 days. however, the failure to give notice within 60 days does not invalidate the notice. Such notice shall be left at the dwelling or usual place of business of such person, or shall be sent by mail to such person's last known address.

(b) *Assessment prior to last date for payment*. If any tax is assessed prior to the last date prescribed for payment of such tax, demand that such tax be paid will not be made before such last date, except where it is believed collection would be jeopardized by delay.

(26 U.S.C. 6303 and 7521)
[T.D. ATF-301.55 FR 47613, Nov. 14, 1990]

26 CFR
§ 301.6303-1 Notice and demand for tax.

(a) *General rule*. Where it is not otherwise provided by the Code. the district director or the director of the regional service center shall, after the making of an assessment of a tax pursuant to (section 6203) give notice to each person liable for the unpaid tax, stating the amount and demanding payment thereof. Such notice shall be given as soon as possible and within 60 days. However, the failure to give notice within 60 days does not invalidate the notice. Such notice shall be left at the dwelling or usual place of business of such person, or shall be sent by mail to such person's last known address.

(b) *Assessment prior to last date for payment.* If any tax is assessed prior to the last date prescribed for payment of such tax, demand that such tax be paid will not be made before such last date, except where it is believed collection would be jeopardized by delay.

Exhibit 3-3F

Subchapter D. --SEizure of Property for Collection of Taxes

Sec. 6331. Levy and distraint.

(a) Authority of Secretary.

If any person liable to pay any tax neglects or refuses to pay the same within 10 days after notice and demand, it shall be lawful for the Secretary to collect such tax(and such further sum as shall be sufficient to cover the expenses of the levy) by levy upon all property and rights to property (except such property as is exempt under section 6334) belonging to such person or on which there is a lien provided in this chapter for the payment of such tax. Levy may be made upon the accrued salary or wages of any officer, employee, or elected official, of the United States, the District of Columbia, or any agency or instrumentality of the United States or the District of Columbia, by serving a notice of levy on the employer (as defined in section 3401(d)) of such officer, employee, or elected official.

Code Sec. 6201

(1) Taxes shown on return. The Secretary shall assess all taxes determined by the taxpayer or by the Secretary as to which returns or lists are made under this title.

§ 6331. Levy and distraint

(a) Authority of Secretary

If any person liable to pay any tax neglects or refuses to pay the same within 10 days after notice and demand, it shall be lawful for the Secretary to collect such tax (and such further sum as shall be sufficient to cover the expenses of the levy) by levy upon all property and rights to property (except such property as is exempt under section 6334) belonging to such person or on which there is a lien provided in this chapter for the payment of such tax. Levy may be made upon the accrued salary or wages of any officer employee, or elected official, of the United States, The District of Columbia, or any agency or instrumentality of the United States or the District of Columbia, by serving a notice of levy on the employer (as defined in section 3401(d)) of such officer, employee or elected official. If the Secretary makes a finding that the collection of such tax is in jeopardy, notice and demand for immediate payment of such tax may be made by the Secretary and, upon failure or refusal to pay such tax, collection thereof by levy shall be lawful without regard to the 10-day period provided in this section.

Form 17A
Revised Nov. 1953
U.S. Treasury Department
Internal Revenue Service

Statement of Income Tax Due

Charles H. Lehigh
1415 Westrain
Eldorado Park Aug. 15 51010055
OH 22753 1953
INT to 8/15/55
JEOPARDY ASSESSMENT SEC 273(A)
IRC of 1939 SEC 6861 IRC 1954

AUG '55	247,012.96	
AUG '55	20,966.10	
AUG '55	14,815.92	
AUG '55P	21,400378	
	BALANCE DUE:	304,225.76

This bill for the amount shown as "Balance Due" is being sent to you in accordance with law. The law also requires that interest at 6 percent per year until date of payment be added unless this amount is paid within 10 days from date of this notice.

Mounts shown in "Assessment" above are for tax unless identified as penalty by letter "P" or interest by Letter "L".

Please return this notice with remittance to District Director of Internal Revenue at:

Little Rock, Arkansas

Dated: AUG 16, 1955

TREASURY DECISION 1995 - Form 17

Here the court correctly points out that a taxpayer must receive two demand notices before the government can seek to seize his property. The "First Notice and Demand" is the Form 17 which must be sent pursuant to Code Sections 6303(a) (Figure 4-3) and 6331(a), and the Second Notice is the Secretary's notification "in writing of his intention to make such levy," as provided in 6331(d). The IRS' FINAL NOTICE as shown in Figure 5-8 is that "Second" Notice. **However, the IRS never even sends out the required first notice!**

Figure 7-4
INTERNAL REVENUE.

(T.D. 1995.)

Assessed taxes -- Notice and demand, Form 17.

Notice of an demand for assessed taxes to be issued promptly to secure tax lien, penalty, and interest in case of nonpayment.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D.C., June 12, 1914.

To collectors of internal revenue:

It appears that certain collectors hold that notice of assessment and demand, Form 17, is not necessary to create a liability to 5 percent penalty and interest at 1 per cent per month in the case of income tax remaining unpaid after June 30 or other due date. This view as to the requirements of the law is clearly wrong and contrary to the instructions (art. 197, Refs., 33) issued on the subject.

The necessity of issuing Form 17 is twofold -- first, to determine the date when 5 per cent penalty accrues and interest at 1 per cent per month begins to run, and, second, to complete the Government's lien on property belonging to that taxpayer.

In special excise and income-tax assessments a notice on Form 647 is required to be given in all cases where the required return is filed in due time. This, however, is simply a preliminary notice of assessment, to be followed, in case of nonpayment, by a formal notice and demand which the law clearly contemplates and which the courts hold to be necessary before the delinquent taxpayer becomes chargeable with penalty and interest.

In all cases, therefore, where an assessed tax remains unpaid after it becomes due a notice on Form 17 should be at once issued to be followed, when necessary, by Forms 21 and 69, in their order. The fact that a claim for abatement is pending or the tax is in litigation does not relieve the collector from issuing the notices, demands, etc., required by law.

A misunderstanding on the part of certain collectors as to these requirements has occasioned a considerable loss to the Government of penalty and interest, especially where claims for abatement were pending.

W. II. OSBORN
Commissioner of Internal Revenue

WHAT THE COURTS SAY

CASE	DECISION
FLORA v. U.S.., 362 U.S. 145 176 (further augmented by U.S. 9th Cir. Ct. of Appeals in BOTHKE v TERRY, 713 F2d 1405 IN 1983). and LAING v. U.S. (19760 96 S. Ct. 473	The income tax system is a self-reporting and self assessing one. It is based upon voluntary assessment and payment, not upon distraint (force)

U.S. SUPREME COURT

Grace v. American Central Ins Co., 109 U.S. 287

Because Federal courts are limited in jurisdiction, the presumption is that it is without jurisdiction unless the contrary affirmatively appears.

Marbury v. Madison, 5th U.S. (2 Cranch) 137, 180 (1803)

All laws, rules and practices which are repugnant to the Constitution are null and void.

Boyd v. U.S., 116 U.S. 616,635 (1885) & U.S. v. Vadnar

It is the duty of the courts to be watchful for the Constitutional rights of the citizen and against any stealthy encroachments thereon.

McMculloch v. Maryland, 4 Wheat 17 U.S. 415, 431, 316
Knowlton V. Moore, 178 U.S. 41; Enoch v. Williams, 370 U.S. 1

The power to tax involves the power to destroy.

Helvering v. Edison Bros. Stores, 133 F2d 575

The Treasury cannot by interpretive regulations, make income of that which is not income within the meaning of th revenue acts of Congress, nor can Congress, without apportionment, tax as income that which is not income within the meaning of the 16th Amendment.

ILL v. Philpott, 445 F2d 144, 146

In numerous cases where the IRS has sought enforcement of its summons pursuant to statute, courts have held that a taxpayer may refuse production of personal books and records by assertion of his privilege against self incrimination. The Court quoted STUART v. U.S. 416 F2d 459 and U.S. v. Kleckner, 273 F Supp. 251.

U.S. v. Lombardo, 338 F. 980, 981

To penalize the failure to give a statement which is self incriminatory, is beyond the power of Congress.

Evans v. Gore, 253 U.S. 245

The 16th Amendment does not justify the taxation of persons or things previously immune. It was intended only to remove all occasions for any apportionment of income taxes among the states. It does not authorize a tax on a salary.

U.S. v. Bishop, 412 U.S. 346, 361 (1973)

The requirement of an office committed willfully is not met, therefore, if a taxpayer has relied in good faith upon a prior decision of this Court.

Busse v. Commissioner of Internal Revenue, 479 F2d 1143 (1973)

Courts have no power to rewrite legislative enactments to give effect to their ideas of policy and fitness or the desirability of symmetry in statues.

McCarthy v Arndstein, 266 U.S. 34

The Fifth Amendment applies alike to criminal and civil proceedings.

U.S. v. Leo J. Dorey, Jr., U.S. Ct. of Appeals, 9th Cir. 82-1322 Argued & Submitted 3/83 decided 7/83 pp. 3470-3473

The due process clause requires that a statue, which is used as basis of a criminal charge, give fair warning of conduct which is prohibited so that each person can conform his conduct to requirements of the law. Fundamental principles of due process mandates that no individual be forced to speculate whether his conduct is prohibited.

Cheek v. U.S. 111 S. Ct 604 (1991)

If the defendant had a subjective good faith belief, no matter how unreasonable, that he was not require to file a tax return, the government cannot establish that the defendant acted willfully.

Edwards v. Cuba & Co., 266 U.S. 628, 631; 45 S. Ct. 614, 615

A proper regard for the Constitution's genesis, as well as its very clear language, requires also that the 16th Amendment shall not be extended by loose construction.

U.S. v. Kaiser, (1960) 80 S. Ct. 1264

A Personal right that is not transferable or assignable is also not taxable. Damages for alienation of affections, defamation of personal character do not constitute income.

Brushaber v. Union Pacific RR, 240 U.S. 1, 17; 36 S. Ct 236, 241

Income has been taken to mean the same thing as used in the Corporation Excise tax of 1909 (36 State. 112). The worker does not receive a profit or gain from his/her labors - merely an equal exchange of funds for services.

Stapler v. U.S., 21 f. supp 737 at 739

Income means gains/profit from property severed from capital, however, invested or employed. Income is not a wage or compensation for any type of labor.

Commissioner of Internal Revenue v. Duberstein, (1960) 80 S. Ct. 1190

Property acquired by gift is excluded from gross income.

Home Mutual Insurance Co. v. Commissioner of Internal Revenue, (1980) 639 F2d 333

Tax on income derived from property was the equivalent of a direct tax on the income-producing property itself and must be apportioned in accordance with provisions of Article 1 of the Constitution.

McCutchin v. Commissioner of Internal Revenue, (1947) 159 F2d 472

The 6th Amendment does not authorize laying of an income tax upon one person for the income derived solely by another (employee).

Perlman v. U.S., 490 F2d 933 (Ct. Cl. 1974)

Ability to exercise voluntarily or 928, free choice is violated when duress is brought on by government action.

Miranda v. Arizona, 384 U.S. 436, 491; 86 S. Ct. 1602

Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them.

BOTHKE v. FLUOR ENGINEERS A
Cite as 713 F.2d 1405

15. Internal Revenue - 4520

Because income tax system is based on voluntary self-assessment, rather than distraint, Internal Revenue Service may assess tax only in certain circumstances and in conformity with proper procedures. 26 U.S. C.A. § 6331(a).

16. Internal Revenue - 4636

Under assessment to statutory requirement that taxpayer receive pre-assessment notice of deficiency which gives him 90 days to petition Tax Court if amount assessed is result of mathematical or clerical error on face of return, regular deficiency-proceeding safeguards are mandatorily triggered if taxpayer requests abatement within 60 days. 26 U.S.C.A. §§ 6212, 6213(a), (b)(1,2), (g)(2).

18. Internal Revenue - 4440

Internal Revenue Service, with its expertise, is obliged to know its own governing statutes and to apply them realistically.

Edward Lesoon
P.O. Box 3427
Alpine, Wyoming 83128
Phone Number
307-886-0115

IN THE DISTRICT COURT OF THE UNITED STATES THE NINTH JUDICIAL DISTRICT OF THE STATE OF WYOMING IN AND FOR THE COUNTY OF SUBLETTE.

EDWARD LESOON
Plaintiff-Pro Se

VS.

UNITED STATES
OF AMERICA
Defendant

Civil Case No. 5808
Date: December, 23, 1996

COMPLAINT
Fee: Category:
Fee: $50.00

"JURY TRIAL DEMANDED"
Fee: $50.00

FILED
December 23, 1996

/s/
Marilyn M. Jensen
Clerk of District Court
Pinedale, Wyoming

Comes now the Plaintiff of record and complain and allege as follows:

I

Complaint to recover property illegally extorted and deprived in violation of law, the United States Constitution and numerous acts of congress and government regulations.

II

Plaintiff Edward Lesoon, most respectfully requests that this Honorable Court take judicial notice that the Supreme Court in Haines VS. Kerner, 404 U.S. 519, ruled that district court should not hold the pleadings of Pro Se litigants to the same standard as formal pleadings drafted by lawyers.

III

Plaintiff, Edward Lesoon, also respectfully requests that this Honorable Court take Judicial notice and acknowledgment in the case Faretta VS. California 422 U.S. 806 in affirmative right of self-representation. Also see Rule 5 of the Wyoming Rules of Civil Procedure, and the Sixth Amendment of the United States Constitution.

IV

Plaintiff, Edward Lesoon, most respectfully requests that this honorable Court of Law take judicial notice and consideration of a citizen equal rights, to seek justice under the Supreme Law of the land "The United States Constitution", and this Honorable Court of Law and Justice.

Complaint
E. Lesoon/Complaint

Received Cert. Mail
1-2-97
plw

VENUE

1. Plaintiff, Edward Lesoon, is a resident of County of Lincoln in the State of Wyoming.

Jurisdiction

2. This action arises under 28 United States Code 1345(a) which gives this Honorable Court jurisdiction to "render judgment upon any claim against the United States, founded upon the Constitution, or any act of Congress, or any regulation of an executive of an executive department.

Amount of this Claim

3. $7,623.40 (seven thousand six hundred and twenty three dollars and forty cents) plus interest.

-plus-

$1,000,000.00 (one million dollars) in punitive and reckless damages as provided by law and signed into law as a tax payer Bill of Rights by President Bill Clinton on Tuesday, July 30, 1996.

Plaintiff Contends the Following

4. The entire amount of $7,623.40 of the claim plaintiff believes represents property seized and deprived under color of law (section 6331 of the title 26 of 1954 Internal Revenue Code). Plaintiff believes is in total violation of:

a. All three taxing clauses of the United States Constitution.
b. The "Due Processes' clause of the Fifth Amendment of the United States Constitution.
c. Title 26 of 1954 Internal Revenue Code Sections 6201, 6203, 6303(), 6321, 6322, and 6331.
d. Treasury Department Regulations: 301.6201-1, 301.6203-1,

301..6204-1, 601.103(a) and 601.103(b).

e. Treasury Department decision - 1995

f. As of this date the Internal Revenue Service has not refunded to Plaintiff the $7,623.40 per Plaintiffs, letter of request on April 10, 1995.

g. Plaintiff believes he had no "Income" within the meaning of the Internal Revenue Code of 1954, for year in question 1991.

h. Plaintiff believes no "Law" required him to file or pay any alleged income tax for the year 1991.

i. Plaintiff believes no "Law" established such a thing as an income tax liability.

j. Plaintiff has never been assessed by the Internal Revenue Service for the year 1991, see Bull VS. United States, 295 U.S. 247.

k. Plaintiff believes he had no liability to pay any income tax for year 1991.

l. Plaintiff believes the "Notice of Deficiency" made against him for the year 1991 is totally illegal and extortions since no original assessment was ever made against him for the year 1991, pursuant to Internal Revenue Code Section 6201 and 6203. See Bull VS. United States, 295 U.S. 247.

m. Plaintiff believes the Internal Revenue Service did not acknowledge that his tax case for the year 1991 was in fact dismissed by the United States Tax Court, as Plaintiff was informed by letter by Senator Alan K. Simpson on October 7, 1994, therefore, there was no authority to collect the $7,623.40.

n. Plaintiff believes that the United States Tax Court is without subject matter jurisdiction to have considered Plaintiff's case for 1991. The Tax Court does not have implementing regulation under 6214 of the Internal Revenue code of 1954, and the Tax Court is on Article One court without the judicial power of the United States (see Freytag VS. Commissioner of the Internal Revenue Service 235 F.2d 97.) Furthermore, the Internal Revenue Service is only and "Administrative Agency" without any enforcement powers whatsoever, and without "Legislative Implementing Regulation" pursuant to 26 United States Code of

Federal Regulation. Therefore, Plaintiff believes that the Internal Revenue Service is without jurisdiction over Plaintiff , for its action against the extortion of $7,623.40, it extracted on March 9, 1995 out of Plaintiff's Individual Retirement Account for the year 1991 and pursuant to Internal Revenue Code 7608(a)2.

o. Plaintiff further contends that he did not receive a "Levy" pursuant to Internal Revenue Code Section 6502(a) and "notice of seizure" pursuant to Internal Revenue Code Section 6502(b) for year 1991. No copy of assessment was issued to Plaintiff upon his request for year 1991, pursuant to Internal Revenue code Section 6203, therefore Plaintiff believes he is not liable for any alleged tax. No 1040 return was filed and signed by Plaintiff for the year 1991 at issue, therefore, Plaintiff believes he is not liable for any alleged income tax, pursuant to Treasury Regulation 6211-1 no "Delegation Order" was issued upon Plaintiff's request pursuant to Internal Revenue Code Section 7401. No. "Certification" of Federal Tax Lien was issued pursuant to Florida's Uniform Federal Lien Act 713.0-901, agent for Plaintiff's Individual Retirement Account, Smith Barney Co. No "Notice of Demand for Payment" was issued to Plaintiff for year 1991, pursuant to Internal Revenue Code Section 6303, Treasury Decision 1995 and Treasury Regulation 601-103.

p. Before an income tax can be assessed, the secretary must first be in possession of a "return or list" pursuant to Internal Revenue Code Section 6201. Without the secretary having either a valid income tax "return or list" no income taxes against anyone can be assessed, Internal Revenue Code Section 6201-(1). Section 6203 of Internal Revenue Code further provides that the assessment "shall be made by recording the liability of the tax payer in the office of the secretary," and that the secretary "shall furnish" tax payer copies of record of assessment upon request of tax payer, also see Treasury Revenue Service never provided any to Plaintiff.

Furthermore please note that Treasury Regulation 301.6204-1 makes it perfectly clear that an assessment must be made "before" a deficiency can be determined for year 1991. It should also be very clear that a deficiency assessment for 1991 can only be made for the purposes "or correcting or completing the original assessment," and if there has been no original assessment (return filed,) then the Internal Revenue Service lacks any authority to even allege a deficiency since there is nothing to "correct of complete" for the year 1991.

The statute is clear that the Internal Revenue Service can not make either an assessment or a deficiency assessment against the Plaintiff since a tax return was never filed by Plaintiff for the year 1991, this is pursuant to Internal Revenue Code Section 6204(a). Plaintiff believes that he has never been made liable for any tax for the year 1991.

The courts have ruled that liability for taxation "must clearly appear", see Seagraves VS. Wallace, 69F2d163. Muller VS. Standard Nut Margarine, 284 United States 498, 508. United States VS. Updike, 281 United States 489, and United States VS. Merriam, 263 United States 179, 187, 188. Each and every enforcement provision of the code is made contingent upon tax payer being "Liable for the tax in question. Therefore, Plaintiff believes that the extraction of $7,623.40 is totally illegal and without bases for any liability for the year 1991.

q. Plaintiff believes he is not liable for any income tax for the year 1991. This is pursuant to Internal Revenue Code Sections 6001, 6011, 6012, the Privacy Notice Act and individual Master File MFR-01. Plaintiff's justification is his relying on the United States Government's interpretation of the law and its representation of the Privacy Act Notice, Internal Revenue Code Sections 6001, 6011, 6012, Plaintiff's Individual Master File MFR-01 and United States Supreme Court. Pursuant to Cheek VS. United States III S. Ct. 604 and Long VS United States CR-1-93-9. Plaintiff believes he is not liable to file a return or pay any income tax for the year 1991.

Pursuant to Internal Revenue Code Sections 6501(c)(3), 6201, 6203, 6211(a) 6020(a) and 7401, Plaintiff believes that he is not liable to file a return or pay any income tax for the year 1991. Pursuant to the law "no deficiency or assessment" can exist unless Plaintiff files a tax "return or confession" and show an income tax due; and Plaintiff has not filed a return or list with the Internal Revenue Service at all for the year 1991. Pursuant to the "United States Supreme Court ruling that income tax is "corporate profit," and Plaintiff is not a corporation, see Merchant's Loan and Trust Co. VS. Smietanka, 255 United States 509; Brushaber VS. Union Pacific Railroad, 240 United States 1, 17, 36 S. Ct. 236 241; Doyle VS. Mitchel Brothers Co. 247 United States 179, 185-188; Eisner VS. Macomber 252 United States 189, 206, 207; Stratton's Independence VS. Howbert 231 United States 399, 415; and Southern Pacific Co. VS. Lowe, 247 United States 330, 335. Plaintiff believes that he is not liable to file a return or pay income tax for the year 1991. Pursuant to the United States Supreme Court Ruling that our tax system is based upon "voluntary assessment" and payment, not upon distrain. See Flora VS. United States 362 - United States 145, 176; Laing VS. United States 96 S. Ct. 473; and Bothke VS. United States 713 F.2d 1405. Plaintiff truly believes that he is not liable to file a return or pay any income tax for the year 1991.

Pursuant to our United States Constitution: the 4th and 5th Amendments, Plaintiff truly believes that he is not liable to file return or pay any income tax for the year 1991. Pursuant to statements made by present and former Internal Revenue commissioners, Jerome Kurtz, Mortimer Caplin, Johnnie M. Walters, and Sherly Peterson, that our tax system is "self-voluntary." Plaintiff believes that he is not liable to file or pay any income tax for the year 1991.

Pursuant to the law that income taxes are based on "voluntary self-assessments" the Internal Revenue Service or the United

States Government do not have any statutory authority to issue a "deficiency or assessment" for forceable collection of income tax. See Flora VS. United States 362, 145, 176.

Plaintiff believes that he is not liable to file a return or pay any income tax for the year 1991. The illegal extraction, confiscation and extortion made on Plaintiff's Individual Retirement Account, in the amount of $7,623.40 for the year 1991 extracted on March 9, 1995, is illegal, fraud, corrupt, erroneous, and totally against the law, and against the Plaintiff's right of the United States Constitution. Plaintiff alleges that there is no law subjecting Plaintiff's pursuit of livelihood (reenumeration for work performed) to federal withholding laws, nor any laws abrogating Plaintiff's common law right to earn said livelihood, or to enter into work contracts. This is based on the principle of American jurisprudence that "the individual owes nothing to the state, for he receives nothing therefrom...his rights are such as existed by the law of the land long antecedent to the organization of the state and can only be taken from him by "due process of law" and in accordance with the United States Constitution. Among his rights are...the immunity of himself and his property from arrest or seizure except under a warrant of the law. He owes nothing to the public so long as he does not trespass upon their rights." Hale VS. Henkle 201 United States 43; Trading Company VS. State Tax Commission, 322 United States 335, 338, 64 S. Ct. 1028, 1030; McGoldrick VS. Berwind - White Coal Mining Co.; 309 United States 33, 56-58, 60 S. Ct 388; Atlantic Lumber Co. VS. Commissioner 298 United States 553, 555; 556, S. Ct. 887; Western Livestock VS. Bureau 303 United States 250, 58 S. Ct. 546. Defendant is violating Sections 241 and 242 which is part states "It is a crime for any government employee, acting along or with others, to attempt to deprive a citizen of any rights or privileges secured to him by the United States Constitution or the laws of the United States." Defendant herein has acted without regards to, and in direct violation of the United States Constitution, and the constitutional rights of

Plaintiff, and Lawful Court Order. The Defendant totally disregarded the "Authority of the Secretary" as it pertains to Levy and Distraint, of 1954 Internal Revenue Code Section 6331(a) which states that: "...Section 6331(a) ...levy may be made upon the accrued salary or wages of any officer, employee, or elected official of the United States, the District of Columbia, or any agency or instrumentality of the United States or the District of Columbia ... and because income tax system is based upon "voluntary self-assessment". Plaintiff believes the Internal Revenue Service is without jurisdiction or enforcement authority.

Further note that the Plaintiff is not an officer, employee, or elected official of the United States, the District of Columbia, or any agency or instrumentality of the United States or for the District of Columbia. Defendants and each of them are and at all times mentioned and/or referred to herein were aware of this fact, however, Defendants and each of them blatantly, knowingly, willingly, and with malice and forethought committed fraud, deceit, misrepresentation, mail fraud, extortion, conversion and/or grand theft, Plaintiff is informed and believes.

Plaintiff is informed and believes that said Defendants and each of them did conspire to deprive Plaintiff of his property and funds. That is so conspiring, the Defendants and each of them further did conspire to deprive Plaintiff of his Constitutional Right of due process, and equal protection under the law. That Defendants and each of them have failed to answer Plaintiff's request for information/records, statute to be provided to Plaintiff.

Plaintiff believes the Defendant's action in the corrupt and illegal extortion and theft of the $7,623.40 for the year 1991 was nothing but a lie from start to finish. Plaintiff believes the summary judgment granted to Defendant by tax court is in total violation of law, due process and denial of justice.

V. PRAYER

Wherefore, Plaintiff Prays this Honorable Court:

1. Order Defendant, United States of America, restore to Plaintiff the full amount of all property deprived and seized under color of law: $7,623.40, plus interest and;
2. That the Defendants cease and desist from harassing Plaintiff herein and forever after
3. That this Honorable Court issue an order straining Defendants and each of them from any further harassment of Plaintiff and forever cease and desist any and all liens, levies, deficiencies, and all other means of converting Plaintiff's property and/or funds.
4. Request this Honorable Court to Grant Plaintiff the sum of $1,000,000.00 (one million dollars) in punitive damage, Plaintiff's cost of this suit, and grant such other relief as this Honorable Court may deem just and proper.

Complaint
E.Lesoon/Complaint

Respectfully submitted

/s/Edward Lesoon
Plaintiff, Pro Se

Edward Lesoon
P.O. Box 3427
Alpine, Wyoming 83128
Phone Number
307-886-0115

CERTIFICATE OF MAILING

I, the undersigned, hereby certify that I mailed a copy of notice to the following Defendant on this 8th day of January, 1997 by certified U.S. Mail at:

Pursuant to Rule 4 (i)(1) A.B.C. of Federal Civil Procedure.

Margret Milner Richardson
Commissioner of Internal Revenue Service
1111 Constitution Avenue, N.W.
Room 3000 I.R.
Washington, D.C. 20224

Stephen E. Taylor
Internal Revenue Service
District Director
308 West 21st Street Cheyenne, WY. 82001

Janet Reno
Attorney General of the United States
10th Street and Constitution Avenue, N.W.
Washington, D.C. 20530

David D. Freudenthal
United States Attorney
District of Wyoming
2120 Capital Avenue, Room 4002
Mailing Box 668, 82003-0668
Cheyenne, WY. 82001

Plaintiff

/s/Edward Lesoon - Pro Se
Edward Lesoon
P.O. Box 3427
Alpine, WY. 83128
Phone Number
307-886-0115

DAVID D. FREUDENTHAL
United States Attorney

DONALD R. WROBETZ
Assistant United States Attorney
District of Wyoming
P.O. Box 668
Cheyenne, WY 82003-0668
307-772-2124

FILED
DISTRICT OF WYOMING
CHEYENNE
97 JAN 30 AM 11 58
CLERK

SUSAN A. BERSON
Trial Attorney, Tax Division
P.O. Box 683, Ben Franklin Station
Washington, D.C. 20044
202-307-6559

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF WYOMING

EDWARD LESOON,)
)
Plaintiff,)
v.) No. 97-CV-015-D
)
UNITED STATES OF)
AMERICA)
)
Defendant.)

CERTIFICATE OF FILING OF STATE DISTRICT COURT FILE

Pursuant to Rule 81, U.S.D.C.L.R., and the Order on Removal entered on January 24, 1997, undersigned counsel hereby certifies that he has filed with this court a copy of the complete state district court file, entitled *Edward Lesoon v. United States of America,* Civil Action No. 5808, in the District Court for the Ninth Judicial District of the State of Wyoming in and for Sublette County. The file was certified by Marilyn M. Jensen, Clerk of the District Court, Ninth Judicial District, Sublette County, Wyoming.

DATED this 30th day of January, 1997.

DAVID D. FREUDENTHAL
United States Attorney

/s/
DONALD R. WROBETZ
Assistant United States Attorney

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing CERTIFICATE OF FILING OF STATE DISTRICT COURT FILE was served upon the following by the method(s) indicated below on January 30, 1997.

Edward Lesoon
P.O. Box 3427
Alpine, WY 83128

[ ] By Facsimile
[x] By U.S.Mail-postage prepaid
[ ] By Hand Delivery
[ ] By Overnight Courier

/s/
Office of the U.S. Attorney

IN THE DISTRICT COURT OF SUBLETTE COUNTY
WYOMING NINTH JUDICIAL DISTRICT

EDWARD LESOON
Plaintiff-Pro se
vs.
UNITED STATES OF AMERICA
Defendant

Civil No. 5808

FILED
JAN 27, 1997
District Court Stamp

CERTIFICATION

I, MARILYN M. JENSEN, certify that the following is a true and complete copy of CASE NO. 5808 as of January 27, 1997:

Complaint, "Jury Trial Demanded"
Plaintiff's First Set Of Admissions
Plaintiff's First Request Of Interrogatories
Plaintiff-Stipulation
Support/Document For The Record
Notice Of The Filing Of A Notice Of Removal
Notice Of Removal
Order On Removal

DATED this 27th day of January, 1997.

Marilyn M. Jensen
Clerk of District Court

/s/
By Dana Fenn
Deputy Clerk of District Court

Edward Lesoon
P.O. Box 3427
Alpine, Wyoming 83128
Phone Number
307-886-0115

IN THE DISTRICT COURT OF THE UNITED STATES THE NINTH JUDICIAL DISTRICT OF THE STATE OF WYOMING IN AND FOR THE COUNTY OF SUBLETTE.

EDWARD LESOON)
Plaintiff-Pro Se)
)
VS.)
)
UNITED STATES)
OF AMERICA)
Defendant)

Civil Case No.________
Date________________

FILED
DEC 23 1996
District Court Stamp

PLAINTIFF'S FIRST SET OF ADMISSIONS

In accordance with Rule 36 of the Federal Rules of Civil Procedure, Title 28, Plaintiff respectfully requests that Defendant answer the following admissions:

1. Admit that taxes were not assessed without the Defendant having an income tax return or list: either one prepared by Plaintiff or one prepared for him by the Internal Revenue Service pursuant to Code Section 6020(a), 6020(b) and 6203 for the year 1991.
2. Admit that no original assessment, pursuant to Code Section 6201, was ever made in the instant case for the year 1991.
3. Admit that no copy of "Delegation Order" was issued to Plaintiff upon his request, pursuant to Internal Revenue Code Section 7401, for year 1991.
4. Admit that no copy of assessment was issued to Plaintiff upon his request, pursuant to Internal Revenue Code Section 6203, for the year 1991.
5. Admit that no copy of Notice and Demand for Payment was ever issued to Plaintiff upon request, pursuant to Internal Revenue Code Section 6303 for the year 1991.

IN THE DISTRICT COURT OF THE UNITED STATES
THE NINTH JUDICIAL DISTRICT OF THE STATE OF
WYOMING IN AND FOR THE COUNTY OF SUBLETTE

EDWARD LESOON)
Plaintiff-Pro Se)
)
VS.)
)
UNITED STATES)
OF AMERICA)
Defendant)

Civil Case No. ________
Date: Dec. 23, 1996

FILED
DEC 23 1996
District Court Stamp

PLAINTIFF'S FIRST REQUEST FOR DOCUMENTS

In accordance with Rule 34 of the Federal Rules of Civil Procedure, Title 28, Plaintiff respectfully requests that Defendant supply the following documents:

1. A copy of the code section that allegedly creates the "liability" pursuant to which all of the property at issue was seized for the year 1991.
2. A copy of the Summary Record of Assessment pursuant to which all of the taxes at issue for 1991 were assessed and copies "of the pertinent parts of the assessment" as provided for in 301.6203-1.
3. A copy of the document which was used as the alleged "Notice and Demand" of taxes in the instant case for the year 1991.
4. Copies of all documents which were used recommend and impose penalty; penalty for year 1991.
5. A copy of the law, statute, and regulations that makes the Plaintiff "Liable" to pay income tax based on a return, and its "Legislative Implementing Regulations" for the year at issue 1991.
6. Admit that no self-assessment was ever made by Plaintiff in the instant case for the year 1991.

7. Admit that no "Levy" was issued to Plaintiff pursuant to Internal Revenue Code Section 6502(b) for year 1991.
8. Admit that no "Notice of Seizure" was issued to Plaintiff pursuant to Internal Revenue Code Section 6502(2)(b) for the year 1991.
9. Admit that no Notice and Demand was issued to Plaintiff upon request pursuant to Treasury Decision 1995, for the year at issue 1991. Also the Notice of Demand is pursuant to Internal Revenue Code Sections 6155(a), 6156(d), 6213(c), 6215(a), 6303, 6321. 6861(a) and (f) and 6331.
10. Admit that no income tax can be "owed" until an assessment is made. Treasury Regulation 601.104(c) Bull VS. United States 295.U.S.247.
11. Admit that there is no statute that makes Plaintiff liable as a matter of law to file and pay income tax based on a return, and no legislative implementing regulation.

Plaintiff

/s/Edward Lesoon
Pro Se

Edward Lesoon
P.O. Box 3427
Alpine, Wyoming 83128
Phone Number
307-886-0115

Edward Lesoon
P.O. Box 3427
Alpine, Wyoming 83128
Phone Number
307-886-0115

IN THE DISTRICT COURT OF THE UNITED STATES
THE NINTH JUDICIAL DISTRICT OF THE STATE
OF WYOMING IN AND FOR THE COUNTY OF SUBLETTE.

EDWARD LESOON)
Plaintiff-Pro Se)
VS.)
UNITED STATES)
OF AMERICA)
Defendant)

Civil Case No. 5808
Date________________
FILED
DEC 23 1996
District Court Stamp
/s/
Marilyn M. Jensen

PLAINTIFF'S FIRST REQUEST OF INTERROGATORIES

In accordance with Rule 33 of the Federal rules of Civil Procedure,Title 28, Plaintiff respectfully requests that Defendant supply the following interrogatories:

1. Pursuant to which of the Constitution of the United States three taxing clauses was the income tax, claimed to be owed by Plaintiff, imposed for year at issue 1991.
2. Please identify the code section which establishes the tax liability pursuant to which all of the property and/or Funds at issue was seized for year 1991.
3. As a matter of law, cite to Plaintiff the statute that makes Plaintiff liable to pay income tax based on a return, and cite its legislative implementing regulations.
4. What was the affirmative act or acts under the law, and within the law, of tax allegedly committed by Plaintiff that allegedly warranted the imposition of Section 6651(a) and 6654 penalty for the year 1991.
5. Please identify the treasury form used to satisfy the notice and demand requirements of Section 6303, 6321, and 6331 and the treasury regulation that establishes that document as being the statutory notice and demand required by these statutes.

Respectfully submitted

/s/ Edward Lesoon
Plaintiff-Pro Se

IN THE DISTRICT COURT OF THE UNITED STATES
THE NINTH JUDICIAL DISTRICT OF THE STATE
OF WYOMING IN AND FOR THE COUNTY OF SUBLETTE.

EDWARD LESOON)
Plaintiff-Pro Se)
)
VS.)
)
UNITED STATES)
OF AMERICA)
Defendant)

Civil Case No. 5808
Date_______________

FILED
DEC 23 1996
District Court Stamp
/s/
Marilyn M. Jensen

PLAINTIFF-STIPULATION

1. Plaintiff: hereby stipulates to making "wages", for the year at issue 1991.
2. Plaintiff: hereby stipulates that no 1040 form was filed for the year at issue 1991.
3. Plaintiff: hereby stipulated not being liable for any payment of tax for year at issue 1991.

Respectfully submitted

/s/Edward Lesoon
Plaintiff-Pro Se

CERTIFICATE OF MAILING

I, the undersigned, hereby certify that I mailed a copy of notice to the following Defendant(s) on this 30th day of December, 1996 by certified U.S. Mail at:

Pursuant to Rule 4 (i)(1) A.B.C. of Federal Civil Procedure.

Margret Milner Richardson
Commissioner of Internal Revenue Service
1111 Constitution Avenue, N.W.
Room 3000 I.R.
Washington, D.C. 20224

Stephen E. Taylor
Internal Revenue Service
District Director
308 West 21st Street
Cheyenne, Wyoming 82001

FILED
JAN 2 1997
District Court Stamp
/s/
Marilyn M Jensen

Janet Reno
Attorney General of the United States
10th Street and Constitution Avenue, N.W.
Washington, D.C. 20530

Plaintiff

/s/Edward Lesoon
Pro Se
Edward Lesoon
P.O. Box 3427
Alpine, Wyoming 83128
Phone Number
307-886-0115

/s/
Lisa Hokanson
Notary Public
Notary Stamp

Notary Stamp
/s/
Shawn M. Asbell

“SWORN AFFIDAVIT”

Chris Reedy
Revenue Officer

PRIVATE CITIZEN
Edward Lesoon
P.O. Box 614
Afton, WY. 83110
April, 10, 1995
Social Security #193-34-1977
Subject - 1040
Year - 1991

Internal Revenue Service
Stephen E. Taylor
District Director
308 West 21st Street
Cheyenne, WY 82001-3689
5113

I request and demand total refund of the erroneous and illegal collection of $7,623.40 out of my Individual Retirement Account number 405-63561 1-8-476, on March 9, 1995, for the year at issue 1991. I demand that you immediately refund and return to me the total amount of $7,623.40 by Certified Mail and Certified Check payable to:

Edward Lesoon
P.O. Box 614
Afton, WY 83110

The illegal extraction, confiscation and extortion made on my

Individual Retirement Account, in the amount of $7,623.40 for the year 1991 on March 9, 1995, is illegal and erroneous on the following grounds:

1) I believe that I am not required to file or pay tax for year 1991, see Cheek v. United States, United States Supreme Court, 111 S. Ct. 604 January 8, 1991. I am not liable for such a tax. This pursuant to Internal Revenue Code Section 6001 and the Privacy Notice Act. My justification is my relying on the United States government interpretation of the law and its representation of the Privacy Act Notice, and Internal Revenue Code 6001.
2) The "Notice of Levy" against me dated January 6, 1995, is in total violation of law, since I am not an officer, elected official or government employee. Pursuant to Internal Revenue Code Section 6331(a):

"Levy may be made upon the accrued salary or wages of any officer, employee, or elected official, of the United States, the District of Columbia, or any agency or instrumentality of the United States or the District of Columbia."

3) All collection action of illegal and erroneous extraction of the $7,623.40, from my Individual Retirement Account by the Internal Revenue Service and Revenue officer Chris Reedy, for the year 1991, is in total violation of congressional mandated procedure. As a matter of law, cite to me the statute that makes me liable to pay income tax based on a return.
4) I am not liable for any tax for the year 1991 pursuant to Internal Revenue code 6201, nor have I been made liable for any tax, for the year 1991.
5) I had no income for the year 1991, at issue.
6) The $7,623.40 was stolen from me.
7) Our tax system is based upon voluntary assessment and payment, not upon distraint: United States Supreme Court, Flora v. United States, 362 US145, 176 (1959).

8) No assessment was made against me for the year 1991, pursuant to Internal Revenue code Section 6502 (a) and 6203 and 6201.
9) No notice of Demand for Payment was made and issued to me for year 1991. This is pursuant to Internal Revenue Code Section 6861 (a), and Treasury Decision 1995.
10) No "Notice of Seizure" made and issued to me for the year 1991, pursuant to Internal Revenue Code Section 6502 (b).
11) No levy was made against me for the year 1991 and issued to me, pursuant to Internal Revenue Code Section 6502 (a).
12) No copy of assessment was issued to me upon my request for year 1991, pursuant to Internal Revenue Code Section 6203.
13) No 1040 return was filed and signed by me for the year 1991 at issue.
14) No Delegation Order was issued pursuant the Internal Revenue Code, Section 7401.
15) No Certification of Federal Tax Lien was issued pursuant to Florida's Uniform Federal Lien Act 713.901.

I contend and believe that the Internal Revenue Service and Chris Reedy are corrupt thieves, and in total violation of law. I submit this "Claim for Refund" for $7,623.40 plus interest, pursuant to United States v. Hicks, 947 f. 2d 1356, (9th Circuit Court) 1991.

Demanding,

/s/Edward Lesoon

Enclosures
Copies to:
Chris Reedy, Revenue Officer
Internal Revenue Service
Ogden, Ut
H.R. Harrod,
Senator Simpson, Senator Bidden

Notary Stamp
/s/
Shawn M. Asbell

PRIVATE CITIZEN
Edward Lesoon
P.O. 614
Afton, WY 83110
September 23, 1994
Subject 1040
Tax Period Dec. 31, 1991
Certified Mail#

To: Senator Joe Bidden

Enclosed please find further proof of the I.R.S. Abuse of the American people;

Also enclosed please find "Statement of Account" to me from the I.R.S. to extract illegally $7,127.65. This corrupt and mafia type I.R.S. is seeking to illegally make me pay the above amount in Violation of Law. As United States Supreme Court states: "Our tax system is based upon Voluntary Assessment and payment, not upon distraint." In
Bothke V. Terry 713 F2d 1405, (1983)
Laing V. United States 96 S. Ct. 473 (1976)
Cheek V. U.S. Cite as 11 S. Ct. 605 (1991) and
Flora V. U.S. 362 US 145, 176.

As you can see there is no Law that require me to file income tax, or pay it; since our Tax System is based on Voluntary Self-Assessment, not mandatory.

The Internal Revenue Service, in total Violation of Law, made a Summary Judgment against me, without a hearing or trial of due Process of Law, (2) They put a Lien against my Bank Account without any notification to me, and in violation of State Statutes and cloud of title, (3) They have Violated my Constitutional Rights, by harassing, threatening, and abusing me.

Therefore as a member of Congress I request that you further investigate the truth of my case. And I demand that the Internal Revenue Service stop harassing and abusing me!

I further request a hearing before Congress to further expose this Federal Mafia, to the illegal Tax Collection and the abuse of the American People; and it's injustice.

This is not a Judicial matter but a congressional one! The judiciary is ignoring the laws passed by Congress, and blatantly, arrogantly, and illegally making up its' own Laws in violation of Article 1, Section 1 of the United States Constitution:

And this Congress must stop!

The United States Congress must be made to take responsibility for the lawlessness which is now taking place in Federal Courts, and with the Internal Revenue Service!

Since a tax return does not have to be filed by law, and I did not file, see:

Cheek V. United States Cite as 111 S. Ct. 604 (1991)

I would like to request the copies of the Law, which the I.R.S. would not provide me with #1-4 as indicated on page two, and your help in getting the I.R.S. off my back.

I refer you to; my letter to you dated 9-23-1994 copy of which is enclosed.

I have also enclosed Proof, Copies of my letter, Copies of the Law, copies of Liens and Levies, and other important information related to this case for 1991 for your review.

Also a Copy of Internal Revenue Code Section 6331(a) which does not at all apply to me. And what the I.R.S. is attempting to confiscate from, pursuant to 6331(a) is corrupt, illegal and above all phony.

Thanking you for your help,

Very truly,

/s/Ed Lesoon

Internal Revenue Service
District Director
Date: May 24, 1995

Edward Lesoon P.O. Box 614
Afton, Wy. 83110

CERTIFIED MAIL #1515

Department of Treasury
SS or ID #193-34-1977
Kind of Tax: Income
Document Locator #:
Tax Period Ended:12/31/91
Amount Claimed:
7,623.40
Date Claimed: 4-10-1995
Person to Contact:
H. Kincaid
Contact Telephone #:
1-307-382-3680

We are sorry, but we cannot allow your claim for an adjustment to your tax, for the reasons stated below. This letter is your legal notice that your claim is fully disallowed.

If you wish to bring suit or proceedings for the recovery of any tax, penalties or other moneys for which this disallowance notice is issued, you may do so by filing such a suit with the United States District Court having jurisdiction, or the United States Claims Court. The law permits you to do this within 2 years from the mailing date of this letter. However, it you signed a waiver of the notice of disallowance (Form 2297), the period for bringing suit began to run on the date the waiver was filed.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely yours,

/s/
Stephen Taylor
District Director

Reasons for disallowance:

Assessment and collection of tax is based on wages and self-employment income that you earned in 1991. You failed to file a tax return, thus a "Substitute for Return" was filed on your behalf by the IRS.

FILED
JAN 9 1997
District Court Stamp
/s/
Marilyn M. Jensen

Letter 906(DO) (Rev. 11-82)

To: United States Tax Court
400 Second Street N.W.
Washington, D.C. 20217

From: PRIVATE CITIZEN
Edward Lesoon
P.O. Box 614
Afton, Wyoming 83110

March 8, 1994
Docket # 21573-93S
2nd Amended Petition

Transfer of Hearings to Idaho
Certified # P007428963
For the year 1991

1. Check # 390 which I paid my $60.00 fee to the Court and filed a timely petition, disapproving with the "Notice of Deficiency". This is my legal right by law.
2. I designated Pocatello, Idaho for place of hearing and trail on 10-4-1993, and I am within my legal rights to request that you comply, for hearing and trial to be in Pocatello, Idaho; for I will not attend any hearing on trial in Washington D.C., for the extreme Financial hardship and travel; in the winter weather condition.
3. The Internal Revenue Commission is in error as well as in violation of Law, for preparing a tax return for me, without my consent per Section 6020(o) I.R.C..
4. Rules of Federal Regulation 601.103 states; the Federal Tax System is basically one of self-assessment.
5. I do not volunteer to self-assess myself.
6. I had no tax liability for the year shown in the Notice of Deficiency.
7. Since no original assessment have ever been made against me for the year 1991 -pursuant to 26 U.S.C. 6201.

8. The Commissioner has never "recorded" any tax "liability" in connection with the year at issue in accordance with 26 U.S.C. 6203., and he did not issue me a copy upon my request, that I made a number of times.
9. Since the commissioner never had a tax return of mine which was "filed" or "processed" no tax return could have been "selected for examination"; no "deficiency" determined; and no "proposed adjustments" as provided for in 26 CFR 601.103.
10. The Commissioner is attempting to coerce payment of the "deficiencies" alleged - without the commissioner having first made either any assessment of the amount allegedly owed, or bringing "a proceeding in court" for the amount allegedly due; as provided for in 26 U.S.C. 6501 (c)(3).
11. This proves, the "Notice of Deficiency" was sent to me in violation of Law.
12. Petitioner moves this honorable court to rule that the "Notice of Deficiency" and the hearing on 3-16-94 are in error, and that they provide the Court with no lawful basis for considering or determining whether or not any alleged "deficiency" exist for the year 1991.
13. I've submitted this written motion to the court and asked it to dismiss, the hearing as well as the "Deficiency" due to the courts' lack of subject matter jurisdiction. I support this motion, that this Federal Courts' now jurisdiction is challenged:

    1) Harris V. American Legion, 162 F. Supp. 700

    2) The Supreme Court McNutt V. General Motors Acceptance, 56 S. Ct. 780.

    3) The State of Rhode Island V. the State of Massachusetts 37 U.S. 709.

Respectfully Submitted

/s/Edward Lesoon
March 8, 1994

U.S.P.O.
GREEN CERTIFICATE

United States Tax Court
400 Second Street, N.W.
Washington, D.C. 20217

March 14, 1994

P 007 428 963

Receipt for Certified Mail

U.S. Postal Stamp
March 8, 1994

Supreme Court of the U.S.A.

LAW-PROCEDURES EDUCATIONAL NOTICE. TO: THE OFFICER
AND CLERKS OF THE COURT OF THE DISTRICT THE united STATES OF AMERICA –

ABBREVIATIONS: F.R.C.P. = FEDERAL: RULES OF CIVIL PROCEDURE
C.u.S.A. = CONSTITUTION OF THE u.S.A.: ARTICLE THE
U.S.A. CODES: = UNITED STATES OF AMERICA: CODES
u.S.A. = united STATES OF AMERICA

THE NOTICE IS TIMELY. THE NOTICE IS NOT MEANT FOR DELAY.
1. THE NOTICE IS IN GOOD FAITH. FOR KNOWLEDGE OF THE LAW AND F.R.C.P.
2. UNDER TITLE: 42: U.S.A. CODES: SECTION: 1986 FOR KNOWLEDGE OF THE LAW AND F.R.C.P. THE ABOVE TITLED PLAINTIFF(s) MUST REPORT THE
RULE: 60(b) FOR THE DISCOVERY OF A FRAUD, THE DISTRICT OF OATH AND AFFIRMATION
FACTS UNDER F.R.C.P. RULE: 26(e)(2) TO A JUDGE OF THE DISTRICT OF OATH AND AFFIRMATION
OR U.S.A. MILITARY OFFICER OF THE DISTRICT, AS WILLFUL INTENT UNDER F.R.C.P. RULE: 9(b):
FRAUD AND CONDITION OF THE MIND, FOR THE TITLE: 28: U.S.A. CODES: SECTION: 646
MISAPPLICATION OF OFFICIAL GOVERNMENT: PAPERS ASSIGNED INTO THE COURT OF THE DISTRICT OF
THE u.S.A.; THE DOCUMENTS NOW UNDER REDIRECTION INTO THE UNITED STATES DISTRICT COURT,
IN VIOLATION OF THE C.u.S.A. ARTICLE THE THIRTEEN(13): WHICH AFFIRMS: NO FOREIGN STATE
SHALL HAVE JURISDICTION OVER A SOVEREIGN: CITIZEN IN PARTY; [F.R.C.P. RULE: 44.1] WAS PUT
IN BRACKETS [ ] [JAN. 1949], BY NOT VIOLATING C.u.S.A. ARTICLE THE FOUR(4), SECTION THE
THREE(3) AS OF THE OATH AND AFFIRMATION; [F.R.C.P. RULE: 44.1: FOREIGN JURISDICTIONS]
WOULD CAUSE A PERJURY OF OATH UNDER TITLE: 18: U.S.A. CODES: SECTION: 1621, FOR THE
SUPREME COURT AND THE SENATE OF THE U.S.A. IN WASHINGTON D.C., BY THE RATIFICATION AND
CREATION OF [F.R.C.P. RULE: 44.1] WAS PUT INTO BRACKETS [ ], IN TITLE: 28: U.S.A. CODES:
SECTION: 2074(2)(2)(B).

3. BY FURTHER RESEARCH SHOWING F.R.C.P. RULE: 52(a), THE COURT REGARDS THE "JURY" ONLY
AS AN "ADVISORY JURY", UNDER THE RULES OF "BOXING", "FOUR CORNERING", AND "BRACKETING",
RULES OF FOUR-CORNERING STRICTLY REMOVES THE "JURY BOX" OUT OF THE COURTROOM AND BY
ERECTING THE "JURY BOX" ON A "PLANE ERECTED" ABOVE THE "JURISDICTIONAL PLANE" UNDER THE
TITLE: 4: U.S.A. CODES: SECTION: 1 FLAG OF THE u.S.A.

4. "THE COURT'S DETERMINATION SHALL BE TREATED AS A RULING ON A QUESTION OF LAW FOUND IN
[F.R.C.P. RULE: 44.1]": "QUESTION OF LAW" = DOES NOT AFFIRM ANY FACTS OF DISCOVERY UNDER
F.R.C.P. RULE: 60(b) OR ALLOW THE REPORTING OF FACTS UNDER F.R.C.P. RULE: 26(e), BREACHING
THE C.u.S.A. ARTICLE THE EIGHT(8), RIGHT OF CROSS-EXAMINING WITNESSES AND EVIDENCE AND
BY QUESTIONING AND FACING THE PARTY'S ACCUSER OR INJURED PARTY.

5. TITLE: 28: U.S.A. CODES: SECTION: 2072(b) AFFIRMS: ALL LAWS IN CONFLICT WITH THE
CONSTITUTION OF THE u.S.A. RULES SHALL BE OF NO FURTHER FORCE OR EFFECT AFTER SUCH RULES
TAKE EFFECT. CROSS REFERENCE: TITLE: 42: U.S.A. CODES: SECTION: 1985(2)(3) EQUAL
PROTECTION OF THE LAW. NO PARTY SHALL OBSTRUCT THE EQUAL PROTECTION OF THE LAW.

6. UNDER F.R.C.P. RULE: 12(b)(3) VENUE, OF THE JURISDICTIONAL INJURIES OF THE PLAINTIFF(s)
TITLED ABOVE; UNDER THE LAW, PLACES THE CLERK(s) OF COURT, UNDER THE JURISDICTION OF
COURT OF THE DISTRICT OF THE u.S.A., (FOUND IN) TITLE: 28: U.S.A. CODES: SECTION: 1869,
IN DIRECT CONFLICT WITH THE ASSIGNMENT OF JOBS OF GUARDING THE PROCESSING OF THE
PLAINTIFF(s) LAW-BRIEFS INTO THE COURT OF THE DISTRICT OF THE united STATES UNDER
"GOVERNMENT-PAPERS" AND FILED UNDER THE TITLE: 4: U.S.A. CODES: SECTION: 1 AND 2: FLAG
OF THE u.S.A.; HOWEVER, WHEN MISDIRECTED INTO THE UNITED STATES DISTRICT COURT UNDER THE
FOREIGN: FLAG WITH FRINGE FOR THE JURISDICTION OF A FOREIGN: STATE, UNDEFINED IN ANY COURT
UNDER ANY GOVERNMENT: STATUES, FILES, OR BRIEFS IN THE (CORPORATE) U.S.A. OR THE u.S.A.

7. THE UNITED STATES: COURT OF APPEALS: WILL ONLY HEAR INTERLOCUTORY ORDERS OF THE COURT
OF THE district of the U.S.A., UNDER TITLE: 28: U.S.A. CODES: SECTION: 1291-1292. THERE
IS NO MENTION OF "UNITED STATES DISTRICT COURT" AS "THIS COURT" DOES NOT EXIST UNDER THE
CONSTITUTION OF THE u.S.A. UNITED STATES DISTRICT COURT MUST USE OF THE FLAG OF FOREIGN
JURISDICTION WITH FRINGE OF YELLOW FOR SUSPENDING THE CONSTITUTION OF THE u.S.A., AND
ERECT A PLANE FOR A FOREIGN STATE ABOVE THE COMMON LAW AND DISPLAY THE FLAG OF FOREIGN
JURISDICTION WITH FRINGE OF YELLOW; NOW IN VIOLATION OF ARTICLE THE 4: SECTION THE 3 OF
THE C.u.S.A.: "NO NEW STATE SHALL ERECT A STATE WITHIN THE JURISDICTION OF ANY STATE OR
FROM OTHER STATES". CAUSE OF ACTION: "PERJURY OF OATH" TITLE: 18: U.S.A. CODES: SECTION:
1621 BY THE OFFICERS OF THE COURT.

8. BY THE WRONGS, AS PLAINTIFF(s) WILL AFFIRM: OF THE COURT OF THE DISTRICT OF THE u.S.A.,
ARE AS FOLLOWS:

(a). FOR INJURY OF THE PLAINTIFF(s) FOR NOT FILING THE GRIEVANCE OF A COMPLAINT AS
GUARANTEED IN THE ARTICLE THE THREE(3) OF THE C.u.S.A., BY THE CLERK(s) UNDER OATH AND
CONTRACT; SEE WRIT OF ERROR TITLE: 28: U.S.A. CODES: SECTION: SECTION 1. THE "WRIT OF
ERROR" WAS ABOLISHED BY PLACING BRACKETS [ ] AROUND THE WORD: ABOLISHMENT, IN JAN. 31,
1928, AND REINSTATED IN JUNE THE 25, 1948, c 646, SECTION 39, 62 STAT. 992.) THE WRIT OF
ERROR WAS NEVER ABOLISHED BY [ ].

(b). FOR INJURY OF THE PLAINTIFF(s) IN THE EXERCISE OF RIGHTS OF THE CONSTITUTION OF
THE u.S.A., GUARANTEED FOR THE RIGHT OF GRIEVANCE UNDER C.u.S.A. ARTICLE THE THREE(3),
BY THE CLERK(s) AND THE JUDGE OF OATH UNDER TITLE: 42: U.S.A. CODES: SECTION: 1985(2)(3).
COULD BE CHARGED??

(c). FOR INJURY OF THE PLAINTIFF(s) UNDER THE C.u.S.A. ARTICLE THE ELEVEN(11), AS SWORN
IN THE OATH AND AFFIRMATION OF THE RESPONSIBILITY OF THE JOB TITLE OF THE CLERKS FOR
TITLE: 42: U.S.A. CODES: SECTION: 1986 FOR NOT CORRECTING AND STOPPING A WRONG IN THE
FURTHERANCE OF THE COMMISSION OF A DEPRIVATION OF RIGHTS UNDER COLOR OF LAW UNDER LAW OF
THE FLAG FOUND IN TITLE: 18: U.S.A. CODES: SECTION: 242 AND TITLE: 18: U.S.A. CODES:
SECTION: 3 ACCESSORY AFTER THE FACTS, WHEN THE CORRECTION OF WRONG IS NOTICED OF THE
CLERKS AND NO ACTION FOR THE CORRECTION IS TAKEN, BY THE CLERK(s) AND THE JUDGE; WHEN
REPORTED INTO THE COURT BY THE PLAINTIFF(s).

(d). FOR THE INJURY OF PLAINTIFF(s) UNDER TITLE: 18: U.S.A. CODES: SECTION: 241:
CONSPIRACY AGAINST RIGHTS WHEN THE CLERK UNDER THE INSTRUCTION OF THE JUDGE CONSPIRE BY
INJURING, OPPRESSING, THREATENING, AND INTIMIDATING THE PLAINTIFF(s) TITLED ABOVE IN THE
STATE OF WYOMING. OF THE FREE EXERCISE AND ENJOYMENT OF ANY CONSTITUTION OF THE u.S.A.

RIGHTS AND PRIVILEGES SECURED FOR PLAINTIFF(s) HAVING SO EXERCISED THE CONSTITUTION OF THE u.S.A. OR THE CLERK AND THE JUDGE IN DISGUISE WITH INTENT FOR PREVENTING OR HINDERING THE PLAINTIFF(s) FREE EXERCISE OR ENJOYMENT OF ANY CONSTITUTION OF THE u.S.A. RIGHTS OR PRIVILEGES SO SECURED SHALL BE FINED UNDER TITLE: 18: U.S.A. CODES: SECTION: 241 OR IMPRISONED NOT MORE THAN TEN YEARS OR BOTH, BY THE CLERKS AND JUDGE.

(e). FOR THE VIOLATION OF TITLE: 18: U.S.A. CODES: SECTION: 641: PUBLIC MONEY, PROPERTY OR RECORDS: WHEN THE CLERK EMBEZZLES, PURLOINS, OR KNOWING CONVERTS FOR THE USE OF ANOTHER [THE UNITED STATES ~~DISTRICT~~ COURT] OR WITHOUT AUTHORITY OF ANY RECORD, VOUCHER, MONEY, OR THING OF THE court of the district of THE u.S.A., OR ANY DEPARTMENT OR AGENCY THEREOF OR ANY PROPERTY MADE OR BEING MADE UNDER CONTRACT FOR THE FILING OF A district court of THE u.S.A. LAW SUIT, UNDER THE TITLE: 4: U.S.A. CODES: SECTION: 1&2: FLAG OF THE u.S.A. DISPLAYED ATOP THE DOCUMENT AS FOR AFFIRMING JURISDICTION THEREON OR AGENCY THEREOF, OR THE CLERK RECEIVES, CONCEALS, OR RETAINS THE SAME WITH THE INTENT OF CONVERTING THE court of the district of THE u.S.A. INTO THE UNITED STATES DISTRICT COURT UNDER THE FOREIGN FLAG WITH FRINGE OF YELLOW AS THE CONTRACT: PAID FILING FEES BY PETITIONER OF $300.00, IN UNITED STATES CURRENCY AND THE 5 DAYS TIME FOR WITHDRAW HAS PASSED, IS A BINDING CONTRACT FOR A TRIAL BY JURY UNDER THE C.u.S.A. ARTICLE THE NINE(9), IN THE COURT OF THE district of THE u.S.A. UNDER THE TITLE: 4: U.S.A. CODES: SECTION: 1 AND 2, FLAG OF THE u.S.A.. THE PETITIONER IS INJURED UNDER INSTRUCTIONS OF THE JUDGE, KNOWING THE CONTRACT IS BEING EMBEZZLED, STOLEN, PURLOINED OR CONVERTED SHALL BE FINED UNDER TITLE: 18: U.S.A. CODES: SECTION: 241, OR IMPRISONED NOT MORE THAN TEN YEARS, OR BOTH BY THE CLERK AND JUDGE.

(f). FOR TITLE: 18: U.S.A. CODES: SECTION: 646 OFFICERS OF THE COURT: DEPOSITING REGISTRY MONEYS: THE CLERK OF THE court OF THE DISTRICT of THE u.S.A. FAILS BY DEPOSITING ANY MONEY BELONGING IN THE REGISTRY OF THE COURT OF THE court of the district of the u.S.A., THE MONEY BELONGING IN THE REGISTRY OF THE court of the district of the u.S.A. AND THE CREDIT OF THE court of the district of the u.S.A. OR RETAINS OR CONVERTS FOR THE USE OF UNITED STATES ~~DISTRICT~~ COURT AND CONTRACTED MONEY BY THE PLAINTIFF(s) AND THE CLERK OF COURT OF THE court of the district of the u.S.A. (TITLE: 28: U.S.A. CODES: SECTION: 1869) IS GUILTY OF EMBEZZLEMENT AND SHALL BE FINED UNDER TITLE: 18: U.S.A. CODES: SECTION: 646 OR IMPRISONED NOT MORE THAN ONE YEAR, OR BOTH. ALSO SEE TITLE: 18: U.S.A. CODES: SECTION 649.

9. THE PLAINTIFF(s) ARE AWARE OF THE F.R.C.P. RULE: 81 FOR THE WORDING OF THE SUBSTITUTION OF THE court of the district of THE u.S.A. INTO THE UNITED STATES ~~DISTRICT~~ COURT, HOWEVER THE UNITED STATES DISTRICT COURT WAS PLACED IN TITLE: 28: U.S.A. CODES: SECTION: 2074(2)(2)(B) IN BRACKETS [ ], AS FOR THE CONDITION OF THE FOREIGN STATE WAS READ IN [F.R.C.P. RULE: 44.1], [T]HE COURT, NOT THE JURY, SHALL DETERMINE THE LAW. WHERE IS THE C.u.S.A. ARTICLE THE NINE(9): RIGHT FOR A TRIAL BY JURY OF A LEVEL PLANE AND WITHOUT A JURY BOX FOR THE STRICT REMOVAL OF THE JURY OUT OF THE COURT-ROOM. ALL PLANES OF THE COURT MUST BE ON THE SAME LEVEL IN ORDER FOR THE JOINDER OF ALL PARTIES UNDER THE TITLE: 4: U.S.A. CODES: SECTION: 1&2: JURISDICTION OF THE FLAG OF THE u.S.A.

10. THE DRAFTING OF THE REUNIFICATION LANGUAGE IN BRACKETS [ ] OF F.R.C.P. RULE: 26 FOUND IN TITLE: 28: U.S.A. CODES: SECTION: 2074: [F.R.C.P. ED 1996 Pg734-735] AND PUBLIC LAW 95-595 [JANUARY: 2, 1975], FOR THE DISCOVERY OF EVIDENCE WAS PLACED IN THE FUTURE TENSE "TO". BY THE FUTURE TENSE GIVING THE JUDGE THE ABILITY FOR DISREGARDING ANY RULES IN FUTURE TENSE BY INTERFERING WITH THE GOALS OF THE COURT BY WHATEVER THE GOALS MAY BE HOWEVER IT MAY OBSTRUCT JUSTICE.
[THE WRITER HAS WITNESSED WITH FIRST HAND KNOWLEDGE OF VIOLATIONS IN PROCEDURES AND MOST HEARINGS ATTENDED AND PARTICIPATED AS A WITNESS.]

11. THE PLACING OF THE BRACKETS [ ] AROUND CERTAIN LETTERS, WORDS, LAWS, RULES, RATIFICATION DATES, AND THE TITLE(s), CODES AND EVEN REMOVING THE ORIGINAL: ARTICLE THE THIRTEEN(13) FOR THE C.u.S.A.. WAS FOR THE PLAYING ON THE LAZINESS OF THE CITIZENS, PEOPLE, PARTIES, PERSONS, ATTORNEYS, LAWYERS AND FOR ANYONE ELSE NOT KNOWING THE HOMEWORK THE ENGLISH LANGUAGE REQUIRED FOR SURVIVING THE MAZE OF CROSS-REFERENCES NOT BEING READILY AVAILABLE FOR THE CITIZENS OF THE U.S.A.
12. BY THE ABUSE OF THE FOREIGN: SOVEREIGN: IMMUNITY: ACT: DATE: OCTOBER THE 21 OF 1976, WAS FOR ANY FOREIGN STATE DOING BUSINESS IN COMMERCE IN THE u.S.A., WITH THE RESPONSIBILITY OF UPHOLDING THE CONSTITUTIONAL RIGHTS OF THE SOVEREIGN: CITIZEN OF THE u.S.A. BY THE PEOPLE PAY A FILING FEE, FEES BEING COMMERCE, BY THE JUDGE AND OFFICERS OF THE COURT RECEIVING THE GOVERNMENT PAYCHECK BY "WE THE PEOPLE", BECOMES COMMERCE.
13. BY THE COURT SYSTEM UNDER THE FACTS LISTED ABOVE HAVING BEEN IN THE WRITER'S OPINION: ON ONE HAND OF AVOIDING THE BREACH OF OATH AND AFFIRMATION AND ON THE OTHER HAND FOR THE VIOLATION OF DUE-PROCESS AS PRESUMPTIONS, ASSUMPTIONS AND CONCLUSIONS BEFORE THE FACT ARE TRIED BEFORE A COMPETENT-JURY AS IN TRIAL BY JURY GUARANTEED BY THE C.u.S.A. ARTICLE THE NINE(9).
WHERE IS THE TRIAL BY JURY WE THE PEOPLE PAID FOR AND HAVE BEEN DENIED THE RIGHT OF SECURING? HOW IS THE CAPTURE OF THE u.S.A.; WHILE THE u.S.A. SLEEPS ON u.S.A. BAD ENGLISH PRACTICES?
THANK YOU FOR YOUR TIME, THE NOTICE IS FOR EDUCATION IN THE NAME OF JUSTICE.

BY THE NOTICE BEING IN GOOD FAITH AND NOT FOR DELAY.

SUBMITTED WITH RESPECT:

Edward Lesoon
P.O. Box 3427
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Citizen In the Party.